UNITED STATES BANKRUPTCY COUR

IN RE: ComUnity Lending, Incorporated, a California Corporation In a Chapter__11

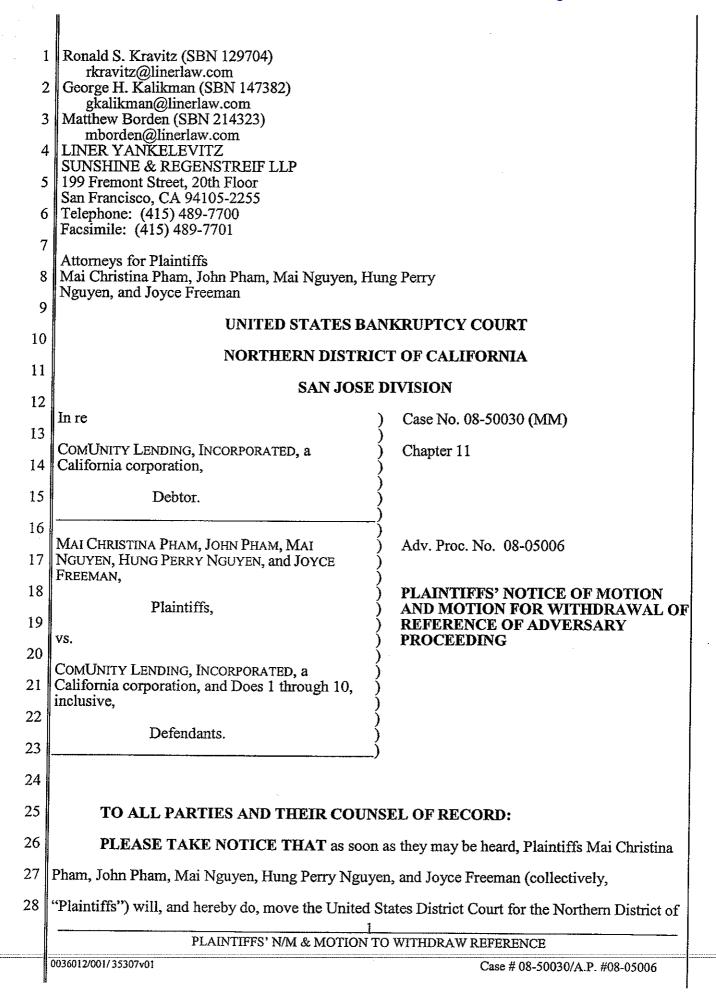
Case No.: _08-5006 11: 53
Adv. Case No.: _08-5006

RICHARD W. WIEKING CLERK U.S. DISTRICT COURT TRANSMITTAL OF WITHDRAWAL OF REFERENCE^{A, S. J.} TO THE DISTRICT COURT

| 1xMotion or order to withdraw reference. | | | | | |
|--|--|--|--|--|--|
| 2Certificate to the District Court non-core proceeding pursuant to B.L.R. 9015-2(b) demand for jury trial. | | | | | |
| 3Certificate to the District Court pursuant to B.L.R. 9015-2(d) personal injury tort and wrongful death claims | | | | | |
| DATE FILED:1/8/08] | | | | | |
| FILED BY (MOVANT):Mai Christina Pham, John Pham, Mai Nguyen, Hung Perry Nguyen and Joyce Freeman | | | | | |
| ATTORNEY:George H. Kalikman199 Fremont St., 20 th Fl, San Francisco, CA 94105 | | | | | |
| PLEADINGS TRANSMITTED TO DISTRICT COURT | | | | | |
| X Motion or Order to Withdraw Reference | | | | | |
| X Memorandum in Support of Motion to Withdraw Reference | | | | | |
| Response to Motion to Withdraw Reference | | | | | |
| Certificate to the District Court | | | | | |
| X Certified Copy of Bankruptcy Docket Sheet | | | | | |
| Other Pertinent Record: | | | | | |
| | | | | | |
| COUNTY OF DEBTOR(S) RESIDENCE: _Santa Clara | | | | | |
| DATE:11/8/08 TRANSMITTED:1/11/08 | | | | | |
| By: _Angela Wong, Deputy Clerk | | | | | |
| Phone No.: _408-535-5118 | | | | | |
| DISTRICT COURT CASE NUMBER: CUB U0201 RMW | | | | | |
| DATE: IAN 1 1 2008 Y: Tiffany Salinas-Harwell | | | | | |
| PLEASE RETURN SECOND COPY UPON RECEIPT | | | | | |

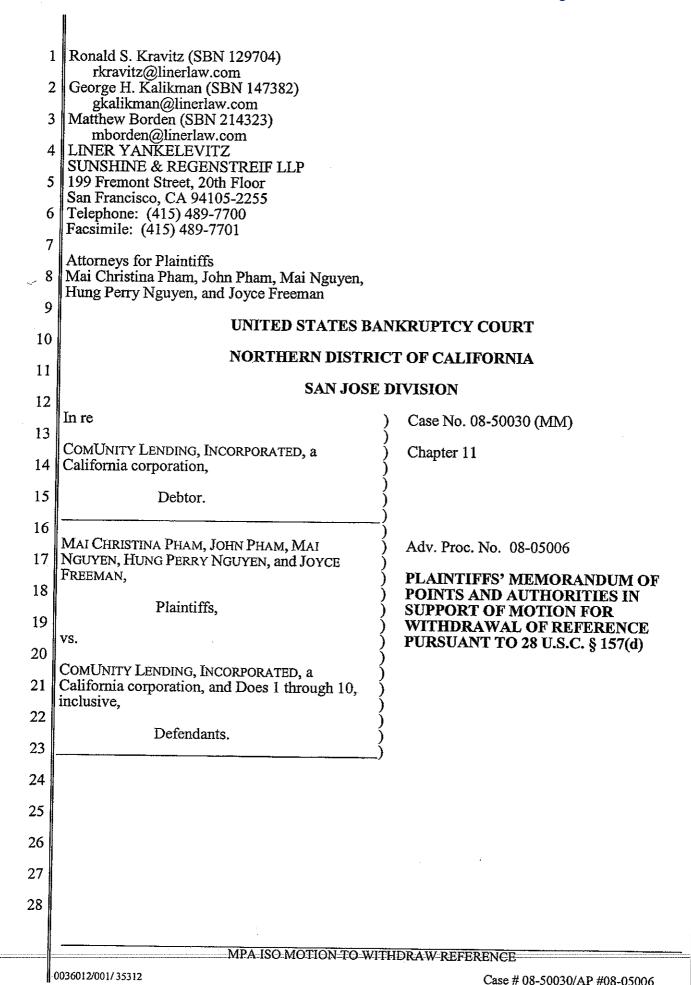
cc:

Attorney for Movant Attorney for Respondent



| 1 | California, San Jose Division ("District Court") to withdraw its reference of the above-captioned | | |
|----------|---|---|--|
| 2 | adversary proceeding to the U.S. Bankruptcy Court for the Northern District of California, San Jose | | |
| 3 | Division, so that the District Court may hear and determine the claims that were originally pending | | |
| 4 | before the District Court in the litigation styled Pham, et al., v. ComUnity Lending, Inc., et al., | | |
| 5 | under Case No. C07-05436 JW (HRL). This Motion is based upon 28 U.S.C. § 157(d), Bankruptcy | | |
| 6 | Rule 5011, Bankruptcy Local Rule 5011-2, this Motion, the attached Memorandum of Points and | | |
| 7 | Authorities, the attached Declaration of Ronald S. Kravitz and exhibits thereto, the Verified | | |
| 8 | Complaint, and all other files and records in this | action, and any further oral and documentary | |
| 9 | evidence as may be presented at or before the time of the hearing of this Motion. | | |
| 10 | | ER YANKELEVITZ ISHINE & REGENSTREIF LLP | |
| 11 | | | |
| 12 | By: | /s/ George H. Kalikman | |
| 13 | | George H. Kalikman Attorneys for Plaintiffs | |
| 14 15 | | Mai Christina Pham, John Pham, Mai Nguyen, Hung Perry Nguyen, and Joyce | |
| 16 | | Freeman | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |
| . | 2 | TO THE TANK A THE DESIGNATION OF THE PERSON | |

PLAINTIFFS' N/M & MOTION TO WITHDRAW REFERENCE



INTRODUCTION

Plaintiffs Mai Christina Pham, John Pham, Mai Nguyen, Hung Perry Nguyen, and Joyce Freeman (collectively, "Plaintiffs") respectfully request that the U.S. District Court for the Northern District of California (Ware, J.) ("District Court") withdraw its reference of the above-captioned adversary proceeding to the U.S. Bankruptcy Court for the Northern District of California ("Bankruptcy Court"), so that the District Court may continue to hear and determine the claims that were originally pending before the District Court in the litigation styled *Pham, et al., v. ComUnity Lending, Inc., et al.*, under Case No. C07-05436 JW (HRL) ("District Court Litigation"), and which are now set forth in the Verified Complaint that Plaintiffs filed in this adversary proceeding. The relief sought by the Plaintiffs is proper under 28 U.S.C. § 157(d), and is necessary to preserve the integrity of District Court orders that defendant ComUnity Lending, Incorporated ("Company") has sought to evade through the commencement of its bankruptcy case.

On October 24, 2007, Plaintiffs filed a complaint against the Company for breach of contract and for declaratory and injunctive relief ("Original Complaint") in the District Court Litigation. The gravamen of the Original Complaint is that the Plaintiffs, as former employees of the Company and participants in the Company's Non-Qualified Deferred Compensation Plan ("Plan"), should have been paid, in the aggregate, in excess of \$3,800,000 on August 10, 2007, when the Company terminated the Plan. Instead of immediately paying the Plaintiffs their respective Plan benefits, as it was legally obligated to do, the Company forged depository instructions that the Plaintiffs had provided to the Company for delivery to the Plan's trustee, and improperly instructed the trustee to turn over the funds to the Company, rather than to the Plaintiffs' respective depository accounts.

On October 30, 2007, Plaintiffs filed an application for a writ of attachment or, in the alternative, for a temporary protective order, seeking an attachment of the funds that the Company

¹ The Verified Complaint in this adversary proceeding essentially restates the averments of the Complaint for Breach of Contract, Declaratory and Injunctive Relief that Plaintiffs filed in the District Court Litigation. Plaintiff Joyce Freeman was not a party in the District Court Litigation. Her claim is for \$407,893.68 and is based on circumstances that are identical to those of the other Plaintiffs.

had converted and was holding in constructive trust for the Plaintiffs' benefit. On November 20, 2007, after a hearing, the District Court entered a Minute Order granting a Temporary Protective Order ("TPO") in favor of Plaintiffs. On November 21, 2007, the District Court issued a written TPO requiring that the Company "hold all funds associated with the TopHat Deferred Compensation Plan in a separate and sequestered account. . . . No money from the TopHat Plan shall be removed, spent, or otherwise transferred for any purpose." On December 4, 2007, after a further hearing, the District Court entered a Minute Order continuing the TPO pending the entry of an order granting Plaintiffs' application for a writ of attachment.

On December 6, 2007, the District Court entered an Order Granting Plaintiffs' Application for a Writ of Attachment, specifically finding that "Plaintiffs have met their burden to establish grounds for relief." On that same day, the District Court issued a Writ of Attachment, noting that the attachment was to secure the sum of \$3,835,119, and directing any U.S. Marshall to attach "[a] deposit account [to] be identified by [the Company or its] President, Richard Couch, upon levy of this writ. [The Company] and Mr. Couch have been ordered to disclose the financial institution at which the account is held and the account number of the account to you."

From the time that the District Court issued its TPO, the Company represented to Plaintiffs that if they were successful in obtaining a Writ of Attachment and sought to levy on the account in which the Company was holding the Plaintiffs' funds, the Company would file bankruptcy to avoid the attachment lien. Plaintiffs took the Company's bankruptcy threat at face value and, to avoid the costs of litigation, sought to enter into settlement discussions regarding their claims against the Company. After the Company declined to engage in settlement discussions, Plaintiffs informed the Company on December 24, 2007, that they would seek to execute the Writ of Attachment. On December 28, 2007, Plaintiffs effected the levy of the Writ of Attachment. As threatened, the Company filed its chapter 11 bankruptcy petition on January 4, 2008.

The district court has original jurisdiction over all cases "arising under" and "related to" the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code" or "Code"). 28 U.S.C. § 1334. Although such cases are automatically referred to the bankruptcy court pursuant to General Order No. 24, the district court may withdraw its reference to the bankruptcy court of

any "case or proceeding." 28 U.S.C. § 157(d). Withdrawal of the reference is mandatory where, as here, "resolution of the proceeding requires consideration of both title 11 and other laws of the United States." *Id.* Because resolution of this case requires consideration of the Bankruptcy Code and ERISA, withdrawal of the reference is mandatory.

Separately, the district court also has wide discretion to withdraw the reference for "cause shown." 28 U.S.C. § 157(d). Here, withdrawing the reference would achieve judicial economy, prevent the Company's blatant attempted forum shopping, speed the resolution of the Company's bankruptcy case, and prevent duplicative litigation. The District Court has already enjoined the Company from using Plaintiffs' Plan benefits until a judicial determination can be made as to whom they belong, and directed the U.S. Marshall's Office to attach those funds, which it did.

The Company should not be able to evade the District Court's orders through the commencement of its bankruptcy case. Moreover, Plaintiffs should not be forced to re-litigate in Bankruptcy Court the issues that the District Court has already heard and determined - - and which would be subject to *de novo* review by the District Court in the event of a contrary ruling by the Bankruptcy Court. Because the District Court already has devoted so much time and attention to the issues in dispute in the District Court Litigation - - which are the same issues in dispute in this adversary proceeding - - those issues can be adjudicated most efficiently by having the District Court hear and determine them. Accordingly, Plaintiffs request that the District Court withdraw its reference of this adversary proceeding to the Bankruptcy Court.

<u>FACTS</u>

Plaintiffs are former employees of the Company and members of the Plan.² The Plan was a "top-hat" plan, which is non-qualified deferred compensation plan governed by ERISA. See, e.g., Carr v. Nationwide Bank, 816 F. Supp. 1476 (N.D. Cal. 1993). Over the course of their employment, Plaintiffs contributed \$4,243,012.68 in salary to the Plan based on the Company's promise that it would honor the terms of the Plan. Plaintiffs' Plan benefits were held in trust by

² A true and correct copy of the Plan is attached as Exhibit 1 to the Declaration of Ronald S. Kravitz ("Kravitz Decl.") filed and served simultaneously herewith.

Investors Bank & Trust Company ("IBT") an independent trustee, pursuant to a Trust Agreement dated September 1, 2003 ("Trust Agreement"), of which Plaintiffs were third-party beneficiaries.³ On August 10, 2007, the Company's board of directors voted to terminate the Plan.⁴

Section 10.2 of the Plan provides that "Upon termination of the Plan, the Participant's full Compensation on a non-deferred basis will be thereupon restored." Section 8.13 of the Plan states: "Benefits under this Plan are <u>immediately payable</u> in a lump sum <u>upon a Plan Termination</u>." (Emphasis supplied.) Instead of paying Plaintiffs immediately, the Company kept the Plan's termination secret for almost one month.⁵

When the Company finally informed them of the Plan's termination, Plaintiffs completed forms instructing the Plan's trustee to deposit their respective benefits into their respective accounts at various depository institutions, and then submitted the forms to the Company. Upon receiving the completed and executed forms from the Plaintiffs, the Company crossed out Plaintiffs' instructions and forged new instructions, directing the Plan's trustee to turn over the Plaintiffs' money to the Company instead, which the trustee did. Thereafter, the Company kept a portion of the Plaintiffs' Plan benefits in a segregated account instead of distributing it to Plaintiffs. In a brief filed in the District Court Litigation, the Company admitted that it placed at least \$227,000 of Plan benefits in one of its operating accounts, contrary to its repeated promises to Plaintiffs that it would transfer those funds to the segregated account. (District Court Litigation Docket No. 25 at 5:19-20; Kravitz Decl. ¶ 9.)

On November 17, 2007, almost one month after Plaintiffs instituted the District Court Litigation, the Company's "Restructuring Officer" ordered a former officer of the Company to

. . .

³ A true and correct copy of the Trust Agreement is attached as Exhibit 2 to the Kravitz Decl.

⁴ A true and correct copy of the minutes of the Company's board meeting at which the Board of Directors unanimously authorized the termination of the Plan is attached as Exhibit 3 to the Kravitz Decl.

⁵ A true and correct copy of the Company's September 4, 2007 announcement informing participants that the Company had terminated the Plan is attached as Exhibit 4 to the Kravitz Decl.

⁶ True and correct copies of Plaintiffs' distribution requests are attached as Exhibit 5 to the Kravitz Decl.

"adjust" the Company's financial statement based on "the Company's assets and liabilities as of September 30, 2007 based on a present day fair market valuation in light of the current factual circumstances." (District Court Litigation Docket No. 25, Attachment 1 ¶ 5.) The Company contends that its "adjusted" financial statement now shows that it was insolvent as of September 30, 2007, but it has made no claim that it was insolvent at any earlier time, including on August 10, 2007, when Plaintiffs' Plan benefits became due and payable immediately. (*Id.*, Attachment 1 ¶ 5, Ex. A.)

As is more fully set forth above, after the Plaintiffs sought to execute the Writ of
Attachment issued by the District Court, the Company commenced its bankruptcy case, thereby
compelling Plaintiffs to commence this adversary proceeding.

ARGUMENT

District courts are vested with jurisdiction over every case commenced under the Bankruptcy Code. 28 U.S.C. § 1334. Pursuant to General Order No. 24, such cases are automatically referred to the bankruptcy court within the same judicial district. A district court may withdraw its reference of any "case or proceeding." 28 U.S.C. § 157(d). "Case' comprises the entire Chapter 7, 9, 11, or 13 case that is commenced by the filing of a petition. Disputes which arise during the pendency of a case are referred to in § 1334(b) as 'proceedings,' and there may be numerous proceedings within a case." In re Anthony Tammaro, Inc., 56 B.R. 999, 1001 n.2 (D.N.J. 1986). Thus, a district court may withdraw its reference as to entire cases, entire adversary proceedings, or individual motions within a case or adversary proceeding. See, e.g., Barona Group of Capitan Grande Band of Mission Indians v. Am. Mgmt & Amusement, Inc., 840 F.2d 1394, 1399 (9th Cir. 1987) (affirming the district court's decision to "withdraw its reference of this bankruptcy case from the U.S. Bankruptcy Court for the Southern District of California, but only to the extent of permitting this Court to hear and determine the issue of the validity of the management agreement of May 11, 1983 between the parties").

I. WITHDRAWAL OF THE REFERENCE IS MANDATORY.

"Congress has unequivocally provided that where other federal laws are involved which spark interstate commerce concerns, those cases must be submitted to Article III courts." In re Am.

Solar King Corp., 92 BR 207, 209 (W.D. Tex. 1988). Accordingly, 28 U.S.C. § 157(d) provides: "The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce."

Here, resolution of this case turns on ERISA, a federal law affecting interstate commerce, and on the Bankruptcy Code. Plaintiffs maintain that the Company has held their Plan benefits in constructive trust since August 10, 2007, when the Company terminated the Plan; the Plan required that the deferred compensation be restored to the Plan participants; and that the Plan benefits be paid immediately to Plaintiffs. Plaintiffs maintain further that because the Company is holding the Plaintiffs' Plan benefits in constructive trust, those benefits and their proceeds are not property of the bankruptcy estate. *E.g.*, *In re Unicom Computer Corp.*, 13 F.3d 321, 324 (9th Cir. 1993).

Adjudicating Plaintiffs' claims and causes of action against the Company will require any court to determine Plaintiffs' right to a constructive trust under ERISA, and to construe Bankruptcy Code § 541, which defines what constitutes "property of the estate" under the Bankruptcy Code. Thus, the outcome of this case turns on substantial questions of federal non-bankruptcy and bankruptcy law. This is the prototypical situation where mandatory withdrawal is required.

"[C]ourts disagree regarding the standard for triggering a § 157(d) mandatory withdrawal (there is yet no controlling Ninth Circuit authority on the issue)." Kathleen P. March, Judge Alan M. Ahart, Judge Leslie Tchaikovsky, *Cal. Practice Guide Bankruptcy* § 1:375 (Rutter Guide 2007). Some courts have held that withdrawal is required whenever consideration of any federal non-bankruptcy law is involved; others have held that the non-bankruptcy law must be likely to affect the outcome, or must create "substantial" questions. *Id.* (collecting cases).

Certainly, the most reasonable interpretation is one that does not impose conditions beyond the plain language of the statute, which simply requires any "consideration" of any non-bankruptcy and any bankruptcy law. *E.g.*, *In re Keifer*, 276 B.R. 196, 200 (E.D. Mich. 2002) ("resolution of the proceeding at bar requires consideration of federal laws outside of Title 11 insofar as a court must determine whether Defendant violated a fiduciary duty under ERISA. Therefore, the plain meaning of the statute dictates that this Court must withdraw the proceeding. Where, as here, the

text of a statute is plain, the Court's inquiry is at an end."). Even under the most stringent test requiring substantial questions of non-bankruptcy and bankruptcy law, this standard is easily met because the outcome of this case is dictated by a confluence of ERISA and the Bankruptcy Code. As such, withdrawal is mandatory.

A. Resolution of this Proceeding Requires Consideration of ERISA.

Proceedings requiring consideration of ERISA constitute proceedings "under other laws of the United States regulating . . . activities affecting interstate commerce" under 28 U.S.C. § 157(d). See Martin v. Friedman, 133 B.R. 609, 612 (N.D. Ohio 1991) ("Resolution of the adversary proceeding will obviously require consideration of ERISA. ERISA is unquestionably a federal law 'regulating organizations or activities affecting interstate commerce.' See 29 U.S.C. § 1001(a). Therefore, by the terms of 28 U.S.C. § 157(d), this Court must withdraw the adversary proceedings from the bankruptcy court."); In re Ottowa Cartage, Inc., 55 B.R. 371, 374 (N.D. III. 1985) ("Trustees contend ERISA § 1103(c)(1) prohibits Ottawa's Code § 547(b) attempt to recover an otherwise voidable preference. Resolution of this adversary proceeding plainly necessitates 'substantial and material consideration' of ERISA § 1103(c)(1). Section 157(d) mandates a withdrawal of reference."); Matter of Lissner Corp., 115 B.R. 604, 612 (N.D. III. 1990) (withdrawing reference where "[r]esolution of the dispute over Central States' claim will require more than rote application of the provisions of ERISA or MPPAA"); see also In re Keifer, 276 B.R. at 200.

This adversary proceeding involves the interpretation of an ERISA-governed top-hat plan, a type of plan about which there have been relatively few federal decisions. Substantial legal questions that a court may need to determine include, without limitation, the scope of ERISA's preemption of related state-law claims, the duties of an employer administering a top-hat plan under ERISA, and the remedies available to Plaintiffs. This litigation may also involve the creation and application of federal common law to fill in interstices in ERISA, which federal district courts are obviously uniquely empowered and qualified to do. Thus, the requirement that the proceeding require "consideration of . . . other laws of the United States regulating organizations or activities affecting interstate commerce" is satisfied easily. 28 U.S.C. § 157(d).

18.

2

3 4

5

6

7 8

9

10 11

13

14

16

17

18

19

20

21 22

23

24

25

26

27

28

B. Adjudication of This Litigation Requires Consideration of the Bankruptcy Code.

This litigation will also involve consideration of at least one provision of the Bankruptcy Code. Under the Code, "property of the estate" excludes "[p]roperty in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest...." 11 U.S.C. § 541(d); In re Unicom Computer Corp., 13 F.3d 321, 324 (9th Cir. 1993) ("something held in trust by a debtor for another is neither property of the bankruptcy estate under section 541(d), nor property of the debtor for purposes of section 547(b)").

Because a debtor has no equitable interest in it, property held in constructive trust is not "property of the estate." Id. ("In the instant case, we are dealing with a particular type of trust, viz, a constructive trust"); In re Coupon Clearing Serv., 113 F.3d 1091, 1099 (9th Cir. 1997) (citations omitted) ("Property that is held in trust by a debtor for another, however, is not property of the estate. This rule of law applies with equal force to constructive trusts "); In re Advent Mgm. Corp., 104 F.3d 293, 295 (9th Cir. 1997) ("In the case of funds held by a debtor in constructive trust for another person, the equitable interest in the trust funds belongs to the trust beneficiary not the debtor."); Elliott v. Bumb, 356 F.2d 749, 753 (9th Cir. 1966). Consistent with the Ninth Circuit's numerous rulings on this issue, Plaintiffs maintain that when the Company improperly seized and converted Plaintiffs' Plan benefits, the Company did not transmute the Plaintiffs' Plan benefits into property of the Company's bankruptcy estate, as that term is defined under section 541 of the Code. Accordingly, Plaintiffs have satisfied the requirement that the "proceeding requires consideration of . . . title 11" in order for the reference to be withdrawn.

In sum, resolution of this litigation will require (1) a determination of Plaintiffs' right to a constructive trust under ERISA, and (2) whether such constructive trust thus excludes the Plan benefits from property of the estate under Code § 541. Given that substantial questions of nonbankruptcy and bankruptcy law dictate the outcome of this case, withdrawal of the reference is required under any construction of 28 U.S.C. § 157(d).

2

3

4

5

6

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

II. THE DISTRICT COURT SHOULD WITHDRAW THE REFERENCE FOR "CAUSE SHOWN."

Even if the District Court determines that withdrawal of the reference is not mandatory, Plaintiffs respectfully submit that the District Court should exercise its discretion to withdraw the reference. The first sentence of 28 U.S.C. § 157(d) gives the District Court wide discretion to withdraw the reference for "cause shown." Sec. Farms v. Int'l Broth. of Teamsters, Chauffeurs, Warehousemen & Helpers, 124 F.3d 999, 1007 (9th Cir. 1997). ("We review a district court's decision to withdraw the reference for an abuse of discretion."). Ample cause exists under the facts of this case.

"In determining whether cause exists, a district court should consider the efficient use of judicial resources, delay and costs to the parties, uniformity of bankruptcy administration, the prevention of forum shopping, and other related factors." Sec. Farms v. Int'l Broth. of Teamsters, Chauffeurs, Warehousemen & Helpers, 124 F.3d 999, 1008 (9th Cir. 1997). "Other District Courts in this Circuit have considered additional factors suggested by the Second Circuit, including: whether the claim is core or non-core, whether the claim is legal or equitable; whether the claim is triable by a jury; and conservation of estate and non-debtor resources." Betta Prods., Inc. v. Distrib. Sys. and Servs., Inc., No. 07-2071 SC, 2007 WL 1750211 *2 (N.D. Cal. June 15, 2007). Here, these factors militate in favor of withdrawing the reference.

Withdrawing the reference will conserve judicial resources. Through its jurisdiction over the District Court Litigation, the District Court has already invested significant time and judicial resources in considering and ruling upon issues between the Plaintiffs and the Company that are identical to those in this adversary proceeding. Under these circumstances, it would be more efficient to litigate this adversary proceeding before the District Court. See Vacation Village, Inc. v. Clark County Nevada, 497 F.3d 902, 914 (9th Cir. 2007) (withdrawal of reference so that judge familiar with the case could hear it "efficiently used judicial resources and minimized further delay and costs to the parties").

Withdrawing the reference also will reduce expense and delay. The issues in this adversary proceeding will have to be litigated either in the District Court or the Bankruptcy Court. Litigating

2

3

5

6

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

this adversary proceeding in the District Court should save money and prevent delay because it will enable the parties to avoid having to re-litigate the issues in dispute.

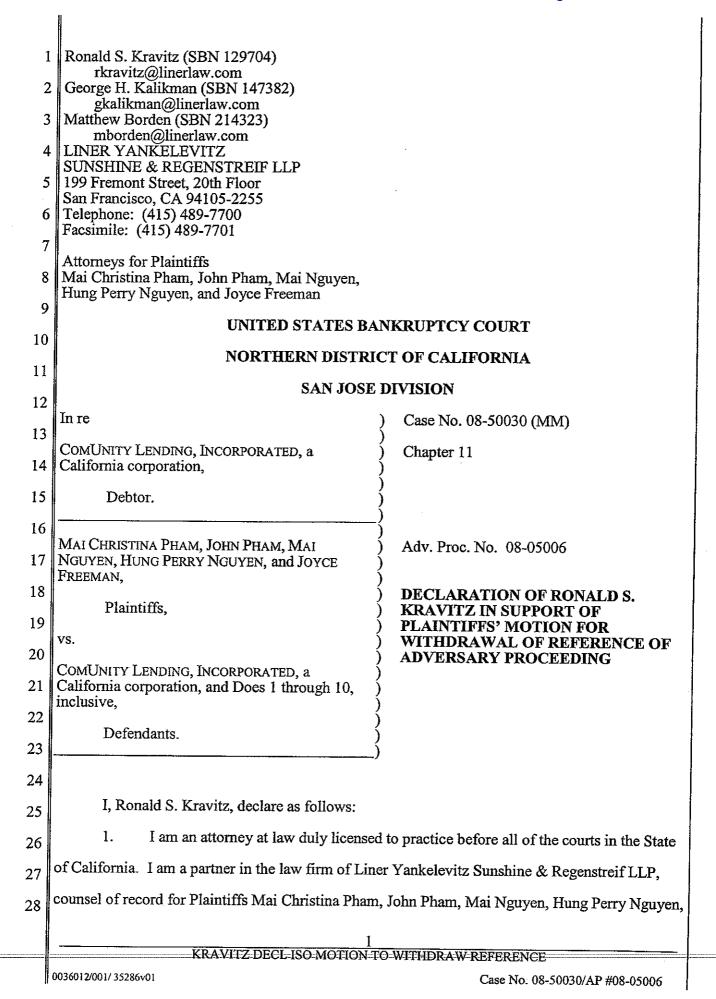
Further, as noted above, this lawsuit is a non-core proceeding because it does not depend on the Code for its existence and can proceed in the District Court. See Dunmore v. United States, 358 F.3d 1107, 1114 (9th Cir. 2005) (cases are classified as "non-core' proceedings if they do not depend on the Bankruptcy Code for their existence and they could proceed in another court"). Because this is a non-core proceeding, any rulings by the Bankruptcy Court would be subject to de novo review by the District Court. 28 U.S.C. § 157(c)(1); Sec. Farms v. Int'l Bhd. of Teamsters, 124 F.3d 999, 1009 (9th Cir. 1997). Thus, litigating this adversary proceeding before the District Court will save time and resources. Id. ("Inasmuch as a bankruptcy court's determinations on noncore matters are subject to de novo review by the district court, unnecessary costs could be avoided by a single proceeding in the district court.").

Withdrawing the reference will also prevent the Company from forum shopping. The Company timed the commencement of its bankruptcy case in order to avoid the Writ of Attachment ordered by the District Court. Preventing such evasive conduct is yet another reason to withdraw the reference. Indeed, if the Plaintiffs are forced to re-litigate the issue of their entitlement to provisional relief pending a determination on the merits of their case, the resultant ruling could be appealed to the District Court. This would needlessly impose added burden and expense on all of the parties.

Withdrawing the reference will eliminate the possibility of inconsistent rulings, and facilitate the administration of and expedite the Company's bankruptcy case, since the Bankruptcy Court will not have to expend judicial resources on a case to which the District Court has already devoted significant time and effort.

Finally, as the District Court has already determined, Plaintiffs' claims against the Company have "probable validity." The crux of those claims is that Plaintiffs' Plan benefits belong to the Plaintiffs - not the Company. The Company is holding Plaintiffs' Plan benefits in constructive trust for the Plaintiffs' benefit; those funds are not and cannot constitute property of the Company's bankruptcy estate. Permitting the Company to litigate the issues in dispute in this

adversary proceeding before the Bankruptcy Court would give the Company a proverbial second 1 2 bite of the apple, and unintentionally reward the Company for its misappropriation of the Plaintiffs' Plan benefits and circumvention of the District Court's Order for a Writ of Attachment. 3 For each of the reasons set forth above, Plaintiffs respectfully submit that there is ample 4 5 "cause shown" under § 157(d). This is a separate and independent reason that the District Court should withdraw the reference. 6 7 **CONCLUSION** 8 For the foregoing reasons, Plaintiffs respectfully request the District Court to withdraw the reference for the above-captioned adversary proceeding and all motions and other matters relating 9 10 thereto between Plaintiffs and the Company. 11 12 Dated: January 7, 2008 LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP 13 14 <u>/s/ George H. Kalikman</u> 15 George H. Kalikman 16 Attorneys for Plaintiffs MAI CHRISTINA PHAM, JOHN PHAM, 17 MAI NGUYEN, HUNG PERRY NGUYEN, and JOYCE FREEMAN 18 19 20 21 22 23 24 25 26 27 28 MPA ISO PLAINTIFFS' MOTION TO WITHDRAW REFERENCE



| 1 | and Joyce Fre | eeman in this case. I have personal knowledge of the facts set forth in this Declaration |
|----|-----------------|--|
| 2 | and, if called | as a witness, could and would testify competently to such facts under oath. |
| 3 | 2. | Attached as Exhibit 1 is a true and correct copy of the ComUnity Non-Qualified |
| 4 | Deferred Cor | npensation Plan ("Plan"). |
| 5 | 3. | Attached as Exhibit 2 is a true and correct copy of the Trust Agreement between |
| 6 | Investors Bar | ak & Trust Company ("IBT") and ComUnity Lending Inc. ("Company"). |
| 7 | 4. | Attached as Exhibit 3 is a true and correct copy of the minutes of the Company's |
| 8 | Board of Dire | ectors meeting on August 10, 2007. |
| 9 | 5. | Attached as Exhibit 4 is a true and correct copy of the Company's announcement of |
| 10 | the termination | on of the Plan, dated September 4, 2007. |
| 11 | 6. | Attached collectively as Exhibit 5 are true and correct copies of the distribution |
| 12 | requests subm | nitted by Plaintiffs, with the instructions crossed out and changed by the Company. |
| 13 | 7. | Attached as Exhibit 6 is a true and correct copy of the Minute Order dated |
| 14 | November 20 | , 2007 issued by the United States District Court for the Northern District of |
| 15 | California, Sa | n Jose Division ("District Court") in the action styled Pham, et al., v. ComUnity |
| 16 | Lending, Inc., | et al., Case No. C07-05436 JW (HRL) ("District Court Litigation"). |
| 17 | 8. | Attached as Exhibit 7 is a true and correct copy of the Temporary Protective Order |
| 18 | entered by the | District Court in the District Court Litigation on November 21, 2007. |
| 19 | 9. | In an opposition brief that the Company filed in the District Court Litigation on |
| 20 | November 28, | 2007 (Docket No. 25 in the District Court Litigation), the Company stated: |
| 21 | "Approximate | ly \$227,011, however, representing contributions from four different individuals, |
| 22 | including one | of the Plaintiffs, was posted to the Company's operating account." |
| 23 | 10. | Attached as Exhibit 8 is a true and correct of the Minute Order entered by the |
| 24 | District Court | in the District Court Litigation on December 4, 2007. |

11. Attached as Exhibit 9 is a true and correct copy of the Order Granting Plaintiffs' Application for a Writ of Attachment, which was entered by the District Court in the District Court Litigation on December 6, 2007.

| 1 | 12. Attached as Exhibit 10 is a true and correct copy of the Writ of Attachment issued |
|----|--|
| 2 | by the District Court in the District Court litigation on December 6, 2007. |
| 3 | I declare under penalty of perjury under the laws of the United States that the foregoing is |
| 4 | true. |
| 5 | Dated: January 7, 2008 |
| 6 | |
| 7 | /s/ Ronald S. Kravitz Ronald S. Kravitz |
| 8 | Rolland D. Ritavitz |
| 9 | |
| 10 | |
| 11 | |
| 12 | |
| 13 | |
| 14 | |
| 15 | |
| 16 | |
| 17 | |
| 18 | |
| 19 | |
| 20 | |
| 21 | |
| 22 | |
| 23 | |
| 24 | |
| 25 | |
| 26 | |
| 27 | |
| 28 | |
| | KRAVITZ DECL ISO MOTION TO WITHDRAW REFERENCE |
| | 0036012/001/ 35286v01 Case No. 08-50030/AP #08-05006 |

TRUST AGREEMENT

- (a) This Agreement between <u>ComUnity Lending Inc.</u> ("Employer") and Investors Bank & Trust Company ("Trustee") is effective September 1, 2003;
- (b) WHEREAS, the Employer has adopted the <u>ComUnity Lending</u>, Inc. Non-Qualified <u>Deferred</u> <u>Compensation Plan</u> ("Plan");
- (c) WHEREAS, the Employer has incurred or expects to incur liability under the terms of such Plan with respect to the individuals participating in such Plan;
- (d) WHEREAS, the Employer wishes to establish a trust (hereinafter called "Trust") and to contribute to the Trust assets that shall be held therein, subject to the claims of the Employer's creditors in the event of the Employer's Insolvency, as herein defined, until paid to Plan participants and their beneficiaries in such manner and at such times as specified in the Plan;
- (e) WHEREAS, it is the intention of the parties that this Trust shall constitute an unfunded arrangement and shall not affect the status of the Plan as an unfunded plan maintained for the purpose of providing deferred compensation for a select group of management or highly compensated employees for purposes of Title I of the Employee Retirement Income Security Act of 1974;
- (f) WHEREAS, it is the intention of the Employer to make contributions to the Trust to provide itself with a source of funds to assist it in the meeting of its liabilities under the Plan;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

- (a) The Employer hereby deposits contributions with the Trustee in Trust, which shall become the principal of the Trust to be held, administered and disposed of by Trustee as provided in this Trust Agreement.
- (b) The Trust hereby established shall be irrevocable
- (c) The Trust is intended to be a grantor trust, of which the Employer is the grantor, within the meaning of subpart E, part I, subchapter I, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly.

- (d) The principal of the Trust and any earnings shall be held separate and apart from other funds of the Employer and shall be used exclusively for the uses and purposes of Plan participants and general creditors as herein set forth. Plan participants and their beneficiaries shall have no preferred claim on, or any beneficial ownership interest in, any assets of the Trust. Any rights created under the Plan and this Trust Agreement shall be mere unsecured contractual rights of Plan participants and their beneficiaries against Employer. Any assets held by the Trust will be subject to the claims of the Employer's general creditors under federal and state law in the event of Insolvency, as defined in Section 3(a).
- (e) The Employer, in its sole discretion, may at any time, or from time to time, make additional deposits of cash in trust with the Trustee to augment the principal to be held, administered and disposed of by Trustee as provided in this Trust Agreement. Neither the Trustee nor any Plan participant or beneficiary shall have any right or duty to compel such additional deposits.

Section 2. Payments to Plan Participants and Their Beneficiaries

- (a) The Employer shall provide to the Trustee all information necessary regarding the benefit payable in respect of each Plan participant (and his or her beneficiaries), and other instructions required by the Trustee such as the form in which such amount is to be paid, (as provided for or available under the Plan), the time of commencement for payment of such amounts and tax withholding instructions Except as otherwise provided herein, the Trustee shall make payments to or for the benefit of, the Plan participants and their beneficiaries in accordance with such information. The Trustee shallmake provision for the reporting and withholding of any federal, state or local taxes that may be required to be withheld with respect to the payment of benefits pursuant to the terms of the Plan.
- (b) The entitlement of a Plan participant or his or her beneficiaries to benefits under the Plan shall be determined by the Employer or such party as it shall designate under the Plan, and any claim for such benefits shall be considered and reviewed under the procedures set out in the Plan.
- (c) The Employer may make payment of benefits directly to the Plan participants or their beneficiaries as they become due under the terms of the Plan. The Employer shall notify the Trustee of its decision to make payment of benefits directly prior to the time amounts are payable to participants or their beneficiaries. In addition, if the principal of the Trust and any earnings are not sufficient to make payments of benefits in accordance with the terms of the Plan, the Employer shall make the balance of each such payment as it falls due. The Trustee shall notify the Employer where principal and earnings are not sufficient.

Section 3. Trustee Responsibility Regarding Payments to Trust Beneficiary When Employer is Insolvent

- (a) The Irustee shall cease payment of benefits to or for the benefit of Plan participants and their beneficiaries if the Employer is Insolvent. The Employer shall be considered "Insolvent" for purposes of this Trust Agreement if (i) the Employer is unable to pay its debts as they become due, or (ii) the Employer is subject to a pending proceeding as a debtor under the United States Bankruptcy Code.
- (b) At all times during the continuance of this Trust, as provided in Section 1(d) hereof, the principal and income of the Trust shall be subject to claims of general creditors of the Employer under federal and state law as set forth below.

- The Board of Directors/Trustees and Chief Executive Officer on behalf of the Employer shall have the duty to inform the Trustee in writing of the Employer's Insolvency. If a person claiming to be a creditor of the Employer alleges in writing to the Trustee that the Employer has become Insolvent, the Trustee shall determine whether the Employer is Insolvent and, pending such determination, Trustee shall discontinue payment of benefits to Plan participants or their beneficiaries.
- Unless the Trustee has actual knowledge of the Employer's Insolvency, or has received notice from the Employer or a person claiming to be a creditor alleging that the Employer is Insolvent, the Trustee shall have no duty to inquire whether the Employer is Insolvent. The Trustee may in all events rely on such evidence concerning the Employer's solvency as may be furnished to the Trustee and that provides the Trustee with a reasonable basis for making a determination concerning the Employer's solvency.
- (3) If at any time the Trustee has determined that the Employer is Insolvent, the Trustee shall discontinue payments to Plan participants or their beneficiaries and shall hold the assets of the Trust for the benefit of the Employer's general creditors. Nothing in this Trust Agreement shall in any way diminish any rights of Plan participants or their beneficiaries to pursue their rights as general creditors of the Employer with respect to benefits due under the Plan or otherwise.
- (4) The Trustee shall resume the payment of benefits to Plan participants or their beneficiaries in accordance with Section 2 of this Trust Agreement only after the Trustee has determined that the Employer is not Insolvent (or is no longer Insolvent).
- Provided that there are sufficient assets, if the Trustee discontinues the payment of benefits from the Trust pursuant to Section 3(b) and subsequently resumes such payments, the first payment following such discontinuance shall include the aggregate amount of all payments due to the Plan participants or their beneficiaries under the terms of the Plan for the period of such discontinuance, less the aggregate amount of any payments made to the Plan participants or their beneficiaries by the Employer in lieu of the payments provided for hereunder during any such period of discontinuance.

Section 4. Payments to Employer

Except as provided in Section 3, after the Trust has become irrevocable, the Employer shall have no right or power to direct the Trustee to return to the Employer or to divert to others any of the Trust assets before all payment of benefits have been made to the Plan participants and their beneficiaries pursuant to the terms of the Plan.

Section 5. Investment Authority

(a) In no event may the Trustee invest in securities (including stock or rights to acquire stock) or obligations issued by the Employer, other than a de minimis amount held in common investment vehicles in which the Trustee invests. Except as provided below, all rights associated with assets of the Trust shall be exercised by the Trustee or the person designated by the Trustee, and shall in no event be exercisable by or rest with Plan participants, except that voting rights with respect to Trust assets will be exercised by the Employer, and except that dividend rights with respect to Trust assets will rest with the Employer.

- (b) The Trustee shall have the power:
 - (i) to invest the Trust as directed by the Employer, and
 - (ii) to collect and receive any and all money and other property due to the Trust and to give full discharge therefor.
- The Trustee shall follow the directions of the Employer with respect to investing and reinvesting the Trust. The Employer shall be responsible to ensure that its directions are in accordance with the Plan and are not contrary to law. The Trustee shall have no responsibility to monitor investments of the Trust, and shall not be liable for any investment losses or consequences resulting from any action or inaction of the Employer with respect to the investments of the Trust. Subject to said directions, the Trustee will invest Trust assets only by utilizing investments or investment vehicles or options made available through or permitted by Diversified Investment Advisors, Inc. ("Diversified") or one of its affiliates; including fixed and variable group annuity contracts, investment companies registered under the Investment Company Act of 1940 and Schwab's Personal Choice Retirement AccountTM.
- (d) Employer To Establish Rules: The Employer may at any time make such uniform and nondiscriminatory rules as it determines necessary or appropriate regarding the administration and investment of the Trust assets

Section 6. Disposition of Income

(a) During the term of this Trust, all income received by the Trust net of expenses and taxes, shall be accumulated and reinvested.

Section 7. Accounting by Trustee

The Trust shall be valued daily. The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made, including such specific records as shall be agreed upon in writing between the Employer and Trustee. Within 90 days following the close of each calendar year and within 90 days after the removal or resignation of the Trustee, Trustee shall deliver to the Employer a written account of its administration of the Trust during such year or during the period from the close of the last preceding year to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust at the end of such year or as of the date of such removal or resignation, as the case may be. The written approval of any accounting by the Employer shall be final as to all matters and transactions stated or shown therein and binding upon the Employer and all persons who then shall be or thereafter shall become interested in this Trust. Failure of the Employer to notify the Trustee within 180 days after receipt of any accounting of its disapproval of such accounting shall be the equivalent of written approval.

Section 8. Responsibility of Trustee

(a) The Trustee shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in

the conduct of an enterprise of a like character and with like aims, provided, however, that Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by Employer which is contemplated by, and in conformity with, the terms of the Plan or this Trust and is given in writing by Employer. In the event of a dispute between the Employer and another party, the Trustee may apply to a court of competent jurisdiction to resolve the dispute.

- (b) If the Trustee undertakes or defends any litigation arising in connection with this Trust, the Employer agrees to indemnify the Trustee against Trustee's costs, expenses and liabilities (including without limitation, attorney's fees and expenses) relating thereto and to be primarily liable for such payments. If the Employer does not pay such costs, expenses and liabilities in a reasonably timely manner, the Trustee may obtain payment from the Trust.
- (c) The Trustee may consult with legal counsel (who may also be counsel for the Employer generally) with respect to any of its duties or obligations under the Trust.
- (d) The Trustee may hire agents, accountants, actuaries, investment advisors, financial consultants or other professionals to assist it in performing any of its duties or obligations under the Trust. As of the effective date of the Trust Agreement, the Trustee has appointed Diversified as the agent to which it has delegated certain duties. Also, as of the effective date of the Trust Agreement, the Trustee appoints the Employer as its authorized representative to which it has delegated the authority to sign on the Trustee's behalf all documents relating to the investment of Plan assets in any vehicle sponsored by or made available through Diversified and its affiliates.
- (e) The Trustee shall have, without exclusion, all powers conferred on Trustees by applicable law, unless expressly provided otherwise herein.
- (f) Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.
- (g) The Trustee shall be accountable only for funds actually received by it hereunder and shall have no duty or liability to determine that the amount of the funds received by it comply with provision of the Plan.

Section 9. Compensation and Expenses of Trustee

- (a) There are currently no fees due the Trustee from the Plan. However, the Trustee reserves the right to impose and/or amend fees upon the giving of 90 days' advance written notice to the Employer. If the Trustee resigns or is removed during the 90 day notice period, such new or amended fees will not be in effect.
- (b) Any fees imposed pursuant to (a) which are incurred in the administration of the Trust may be paid directly to the Trustee by the Employer. All fees not so directly paid by the Employer shall be paid from the assets of the Trust.
- (c) In order to provide for payment of any fees not paid directly by the Employer as provided in (b), the Trustee in its discretion may partially or fully liquidate any asset in the Trust and shall not be liable for any loss resulting from such liquidation. Any fees of the Trustee which are not paid from the Trust for whatever reason will be the responsibility of the Employer. Any payment out of the Trust

of any of the fees authorized in this Section shall be deemed to be for the exclusive benefit of the Participants and their successors in interest.

Section 10. Resignation and Removal of Trustee

- (a) Trustee may resign at any time by written notice to Employer, which resignation shall be effective 90 days after the Employer's receipt of such notice unless the Employer and Trustee agree otherwise.
- (b) The Trustee may be removed by the Employer on 90 days advance written notice or upon shorter notice accepted by Trustee.
- (c) Upon a Change of Control, as defined herein, the Trustee may not be removed by Employer for one year.
- (d) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be effective no less than 90 days after receipt of notice of resignation, removal or transfer unless the Employer shortens the time limit.
- (e) If Trustee resigns or is removed, a successor shall be appointed, in accordance with Section 11. hereof, by the effective date of resignation or removal under paragraph(s) (a) or (b) of this section. If no such appointment has been made, Trustee may apply to a court of competent jurisdiction for appointment of a successor or for instructions. All expenses of Trustee in connection with the proceeding shall be allowed as administrative expenses of the Trust.

Section 11. Appointment of Successor

- (a) If the Trustee resigns or is removed in accordance with Section 10(a) or (b) the Employer may appoint any third party, such as a bank trust department or other party that may be granted corporate trustee powers under state law, as a successor to replace Trustee upon resignation or removal. The appointment shall be effective when accepted in writing by the new Trustee, who shall have all of the rights and powers of the former Trustee, including ownership rights in the Trust assets. The former Trustee shall execute any instrument necessary or reasonably requested by the Employer or the successor Trustee to evidence the transfer.
- (b) The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, subject to Sections 7 and 8 The successor Trustee shall not be responsible for and the Employer shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event, or any condition existing at the time it becomes successor Trustee.

Section 12. Amendment or Termination

- (a) This Trust Agreement may be amended by a written instrument executed by both the Trustee and Employer. Notwithstanding the foregoing, no such amendment shall conflict with the terms of the Plan or shall make the Trust revocable after it has become irrevocable in accordance with Section 1(b).
- (b) The Trust shall not terminate until the date on which Plan participants and their beneficiaries are no longer entitled to benefits pursuant to the terms of the Plan(s). Upon termination of the Trust any assets remaining in the Trust shall be returned to the Employer.

Section 13. Miscellaneous

- (a) Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.
- (b) Benefits payable to Plan participants and their beneficiaries under this Trust Agreement may not be anticipated, assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.
- (c) This Trust Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.
- (d) Depending on the type of plan being covered under this Trust, either 1) or 2) below is applicable.
 - For purposes of this Trust and if the Employer is a stock corporation, Change of Control shall mean: "the purchase or other acquisition by any person, entity or group of persons, within the meaning of Section 13(d) or 14(d) of the Securities Exchange Act of 1934 ("Act"), or any comparable successor provisions, of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Act) of 30 percent or more of either the outstanding shares of common stock or the combined voting power of the Employer's then outstanding voting securities entitled to vote generally, or the approval by the stockholders of the Employer of a reorganization, merger, or consolidation, in each case, with respect to which persons who were stockholders of the Employer immediately prior to such reorganization, merger or consolidation do not, immediately thereafter, own more than 50 percent of the combined voting power entitled to vote generally in the election of directors of the reorganized, merged or consolidated Employer's then outstanding securities, or a liquidation or dissolution of the Employer or of the sale of all or substantially all of the Employer's assets"
 - 2) For purposes of this Trust and if the Employer is not a stock corporation, Change of Control shall mean: "the acquisition by any person or entity (or group of related persons or entities acting in concert), unrelated to the Employer, of control of the Employer, or a liquidation or dissolution of Employer, or sale of all or substantially all of Employer's assets. For purposes of this Section 13(d), the term "control" means that more than 50 percent of the members, directors or trustees of the Employer are either representatives of or directly or indirectly controlled by a person or entity (or group of related persons or entities acting in concert) unrelated to the Employer. A member, director or trustee is a representative of a person or entity (or group of related persons or entities acting in concert) unrelated to the Employer if he is a member, director, trustee, agent or employee of any such persons or entities, or

elected or appointed by any such persons or entities. A member, director or trustee is controlled by a person or entity (or group of related persons or entities acting in concert) unrelated to the Employer if any such person or entity has the power to elect or appoint or remove such member, director or trustee and designate a new member, director or trustee."

(e) The Employer shall provide written notice to the Trustee of any Change of Control no later than 30 days after such Change of Control takes place.

Section 14. Written Notice

Written Notice. Any written notice, demand, direction, or instruction given to the parties to this Agreement shall be duly given if mailed or delivered:

- (a) to the Trustee, at Investors Bank & Trust Company, 200 Clarendon Street, Boston, MA 02116, Attention: Director, Trust and Custody Services, or any other address as shall be specified by the Trustee in writing; and
- (b) to the Employer, at the address indicated on the signature page.

A copy of any written notice, demand, direction, or instruction between the parties to the Agreement shall be sent to Diversified Investment Advisors, Inc., 4 Manhattanville Road, Purchase, NY 10577, Attention: Mr. Peter G. Kunkel

| Employer | | | | |
|--------------------------------|--|--|--|--|
| By:(Authorized Representative) | | | | |
| Address for receipt of notices | | | | |
| 610 Jarvis Dr., Suite 200 | | | | |
| Morgan Hill, CA 95037 | | | | |
| | | | | |
| | | | | |
| Trustee | | | | |
| Ву: | | | | |

degtech/template/nqtribt

ComUnity Lending, Incorporated **Board of Directors Meeting** August 10, 2007

Called to Order By Darryl Fry

Attendees: Janene Towner, Darryl, Fry, Jayson Stebbins

Location: 610 Jarvis Dr., Morgan Hill, CA 95037, California Conference Room

Decision/Minutes recorded by Darryl Fry

Meeting called to order at 9:30 AM by Darryl Fry

The Board has been assembled to discuss various issues.

- 1. Subject: Lender E-Source and Optimal Blue form a joint venture wherein they share technology and share earnings. Possible sale of Lender E-Source to Beanstalk.
 - a. Motion: Janene Towner moves that the Board authorize Derek Long, President of Lender E-Source, to enter into negotiation with both Optimal Blue and Beanstalk for a possible joint venture and/or sale.
 - b. Discussion:
 - I. Jayson Stebbins: Ouestion: They are separate operations?
 - ii. Darryl Fry: Yes, they are but we can group them, because they are tied together. Beanstalk has expressed interest in Lender E-Source on a purchase basis. Negotiations with Optimal Blue may effect Beanstalk negotiations either negatively or positively.
 - c. Seconded by Jayson Stebbins
 - d. Passed by unanimous vote
- 2. Subject: Proposal to withdraw from the affiliate broker program and so inform our joint venture partner with Innergy Lending, WFG. There have been previous discussions and a proposed letter has been drawn up. Darryl has input on letter.
 - a. Motion: Jayson Stebbins moves to authorize the Issuance of the letter dated August 10, 2007 to WFG, subject to the input from the Leadership Team.
 - b. Seconded by Janene Towner
 - c. Passed by unanimous vote
- 3. Subject: City First Funding partnership. The partnership is a modified correspondent relationship with ComUnity Lending, because it is unique in many respects, i.e. ComUnity Lending has some of City First Funding staff on its payroll. The partnership needs to be turned into a traditional correspondent relationship by requiring City First Funding staff be moved off the ComUnity Lending payroll. The partnership would still have some modification because City First Funding still outsource to ComUnity Lending for some things, including the use of our Seamless system and our Capital Markets group.

Confidential Page 1 of 4

ComUnity Lending, Incorporated **Board of Directors Meeting** August 10, 2007

- a. Darryl Fry moves to confirm the decision to engage in a modified correspondent relationship with City First Funding and also to set a target date for City First Funding's personnel to be moved off of ComUnity Lending's payroll and employment by August 24, 2007.
- b. Seconded by Janene Towner
- c. Passed by unanimous vote
- 4. Subject: ComUnity Lending has been approached by ABC (America's Brokers Conduit), a wholesale portion of American Home Loan. Steve Walker and Jayson Stebbins will enter into negotiations to see if they can bring on some of the orphaned production staff.
 - a. Motion: Darryl moves to authorize Steve Walker and Jayson Stebbins to pursue the production opportunities with America's Brokers Conduit.
 - b. Discussion:
 - i. Darryl Fry If the opportunity is going to go away, then we should move as fast as possible.
 - li. Jayson Stebbins Once we expressed that we were not interested in the operations, then half of the opportunities fell away. Formal negotiations may not be to our advantage. Recruiting the AE's one at a time may be more advantageous. Specific AE market: Bellevue. Specific Sales Team markets: Jacksonville, Navato and Huston.
 - c. Seconded by Jayson Stebbins
 - d. Passed by unanimous vote
- 5. Subject: Regarding ComUnity Lending Board of Director Resolution dated November 28, 2005. Resolution subject: In the event of Darryl Fry's death, a certain percentage of stock ownership would be issued to the Leadership of ComUnity Lending in an attempt to hold together the ComUnity Lending Leadership Team. Since that time, changes to ComUnity Lending's Leadership have been made and the stock distribution needs to be modified.
 - a. Motion: Darryl moves to change and amend the unanimous written consent of the Board of Directors dated November 28, 2005 to include distribution of stock ownership in the event of his death to 10% to Jayson Stebbins, 10% to Janene Towner, 8% to Gwenn Tyler, 4% to Chito Schupp, eliminate Thai Nguyen at his previous level of 6% because he is no longer a part of the Leadership Team, Allen Christensen would remain at 2% and Derek Long would remain at 2%.
 - b. Seconded by Janene Towner
 - c. Discussion:

Page 2 of 4

ComUnity Lending, Incorporated **Board of Directors Meeting** August 10, 2007

- i. Darryl Open to suggestions if you feel there should be a different distribution. Discussion of putting Allen at zero, Gwenn at 7% and Chito at 5%.
- ii. Janene Future modifications can be made? Darryl's answer was yes.
- ill. Allen's and Chito's positions with ComUnity Lending and their shares of stock ownership in ComUnity Lending were discussed by the three Board members.
- d. Modified Motion: Darryl revised the motion to read: Darryl moves to change and amend the unanimous written consent of the Board of Directors dated November 28, 2005 to include distribution of stock ownership in the event of his death to 11% to Jayson Stebbins, 11% to Janene Towner, 7% to Gwenn Tyler, 2% to Derek Long, 0% to Allen Christensen, 5% to Chito Schupp and eliminate Corky Watts who is no longer a part of the company and Thai Nguyen who is no longer on the Leadership Team.
- e. Modification seconded by Janene Towner
- f. Passed by unanimous vote
- 6. Subject: ComUnity Lending has been working with The Winter Group to securitize approximately 20 million dollars (\$20,000,000) worth of aged, impaired, troubled loans.
 - a. Motion: Darryl Fry moves to authorize the officers of the ComUnity Lending, Inc. to enter into the securitizing of those loans taking a loss piece to be determined and potentially financing up to 30% of the loss piece by The Winter Group.
 - b. Seconded by Jayson Stebbins
 - c. Passed by unanimous vote
- 7. Subject: Chito Schnupp to enter into a contract on behalf of ComUnity Lending with Optimum Source Inc. The OSI Team to implement the E-scrubbing project for the purpose of EDI.
 - a. Motion: Darryl Fry moves to ratify the contract that Chito Schnupp entered into with Optimum Source Inc. for E-Scrubbing on behalf of ComUnity Lending.
 - b. Seconded by Janene Towner
 - c. Passed by unanimous vote
- 8. Subject: Forbearance agreement between ComUnity Lending and GMAC-RFC.
 - a. Motion: Darryl Fry moves that the Board ratify the forbearance agreement between ComUnity Lending and GMAC-RFC dated June 11, 2007.

Confidential Fage 3 of 4

ComUnity Lending, Incorporated **Board of Directors Meeting** August 10, 2007

- b. Seconded by Jayson Stebbins
- c. Passed by unanimous vote
- 9. Subject: ComUnity Lending stock options for Brad Hunter.
 - a. Motion: Jayson Stebbins moves to grate Brad Hunter 20,000 shares of ComUnity Lending stock options with a 3 year vesting period at current strike price.
 - b. Seconded by Darryl Fry
 - c. Passed by unanimous vote
- 10. Subject: Top Hat The legal changes to the Top Hat Plan were discussed in detail.
 - a. Motion: Darryl Fry moves to terminate the Top Hat plan in 2007.
 - b. Seconded by Janene Towner
 - c. Passed by unanimous vote

Adjourn: 10:05 AM

Janene Towner, Secretary

Approved:

W. Darryl Fry,

Confidential

Page 4 of 4

Page 2 of 2

ANNOUNCEMENT

September 4, 2007

To: TopHat Participants

From: Janene Towner

ComUnity Lending, Inc.

CC: Tami Skriver, Transamerica

Please consider this announcement as your notification of the termination of ComUnity Lending's TopHat Deferred Compensation Plan effective September 4, 2007.

Important information you need to know:

1. Deferrals are no longer allowed.

2. Upon distribution, participants cannot roll over funds and the distribution will be treated as taxable income in the year the distribution is made.

3. Distributions will be made based on the payment options chosen by you (over time or a lump sum distribution) with the exception of deferrals made after January 1, 2005 which must be taken in a lump sum.

4. Deferrals made prior to January 1, 2005 will be distributed within 30 days.

5. Deferrals made after January 1, 2005 cannot be paid prior to September 4, 2008 and must be paid no later than September 4, 2009 (regardless of payment option chosen).

6. All deferrals must be paid out within 24 months of plan termination.

If you have further questions, please contact the Transamerica Customer Care Center at 877-234-9293.

4333 Edgewood Road NE Cetier Rapids. IA 52499 677-234-9293 www.la-rafirement.com

Distribution Request Termination of Employment/Retirement

| Instructions | deliver the form to Transperion of the above |
|--|--|
| To request a distribution, complete all applicable sections of this form, obtain address. Do not use this form to request a direct rollover to an IRA or an eligable TA), or log on to wow to retirement comfor forms and information or | n any required signatures, and return the first of Process (Form No jible retirement plan; instead complete a Direct Rollover Request (Form No i rolling over your account balance to a Transamerica IRA |
| Section A, Employer Information | May be a separate and the second seco |
| Company/ Com Unity Lending Inc Employer Name | |
| Contract/Account No Affiliate No | Division No |
| Section B. Participant Information | 200 - 100 - |
| Lust Namo PHAM | Date of Birth |
| First Npme/MI JOHN | Social Security No |
| Malling Address | |
| City Zip Code | State _ |
| Phone No /Ext | |
| E-mail Address christins.pham@comunitylending com | the same of the sa |
| Section C. Distribution Information | |
| Reason for distribution: Termination of employment Retir | |
| Amount of distribution: \(\sigma \tag{100%} \) or \(\sigma \tag{3} \) | ainder to be: [] Loft on deposit |
| Distribution Options | |
| | Plexible Distribution Options (available if leaving funds on deposit) |
| Durchuse annuity | Pixed Payment \$ (amount) |
| Lump sum distribution | Mxed Payment over years |
| Partial distribution | 1 ife Expectancy Single I Joint (proof of spowe's age required) |
| in-kind distribution of any employer stock (distribution will be in full | Payment commencement month: |
| shares only; partial shares will be paid in cash) | Payment frequency: |
| Deposit Transfer Corp No. Gram new fluoucial institution so stock can be transferred without issuing certificates) | Monthly Quarterly Semi-Annual Annual |
| Note. Please refer to your Summary Plan Description or contact your Plan A available under the plan | dministrator for more information regarding the distribution aptions that are |
| Payment Options | |
| Check or Wire transfer (Complete Information below only if we distribution of at least \$5,000. Any distribution less to | ire tronsfer option is selected. Option available only for lump sum or partial han \$5.000 will be processed in the form of a check) |
| ABA No | |
| Institution Name | |
| | والمراجع والمتعاور والمتعاور والمتعاور والمتعاود والمتعا |
| Account Name | |
| Account No | |
| "Further Credit To" Institution Name (For whe to credit union or overseas bank, call Tran | somerica for additional information) |

Note If one of the above payment options is not selected, this distribution will be processed in the form of a che



| Section D. Outstanding Loan Options (if applicable) |
|--|
| for any outstanding loan(s) at the time of my termination of employment/relitement, I elect to: |
| Pay off the loan(s) (Call Transamerica to verify laan payoff amount and procedure prior to submitting this form) |
| Continue toan repayments via toan coupons (Available if funds are left on deposit and if allowed by the plan Call Transamerica for further information) |
| Default the loan(s) I understand that a taxable distribution will be reported to the IRS as indicated in the Special Tax Notice Regarding Plan Payments |
| Note: If one of the above options is not selected, any outstanding loan(s) will be automatically defaulted in accordance with federal regulations |
| Section E. Tax Withholding Election |
| Mandatory Reder at tucome Tax Withholding - If this distribution is an oligible rollover distribution 20% mandatory federal income tax withholding applies unless the distribution is paid as a direct rollover to an eligible retirement plan or IRA |
| Optional Federal Income Tux Withholding - If this distribution is not an eligible rollover distribution, 10% federal income tax will be withhold unless you elect otherwise. If this distribution is subject to the 20% mandatory federal income tax withholding, do not check below since it does not apply |
| Do not withhold 10% optional federal income tax |
| State Income 1 nx Withholding Withholding is mandatory in some states. Other states allow an independent election and in these states, state lax will be withheld unless you elect otherwise. |
| Do not withhold state income tax (if independent election is permitted) |
| Section F. Participant Signature |
| Please note. Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim from a group annuity contract issued in New York containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance oct, which is a crime, and shall also be subject to a civil penalty not to exceed \$5,000 and the stated value of the claim for each such violation. States other than New York also have insurance fraud statutes which impose penalties for any violation thereof. |
| For Married Participants: I elect to waive qualified joint and survivor benefits (if applicable) with respect to the amount to be withdrawn from the plan. I understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand the publi |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the taxable portion not rolled over. I have received and read the Special Tax Notice Regarding Plan Payments 1 certify that the information provided on this form is correct and complete |
| X And Cen 9-6-07 JOHN PHAM. Participant Agundure Dato Print Name and Social Security Number |
| Section G. Spousal Consent (if applicable) |
| consent to my spouse's waivet of joint and survivorship benefits with respect to the amount to be withdrawn from the plan. I understand that this consent means that I will not receive any survivor benefits under this plan upon my spouse's death with respect to this amount. I understand that I do not have to means that I will not receive any survivor benefits under this plan upon my spouse's death with respect to this amount. I understand that I do not have to means that I will not receive any survivor shall do not have to the waiver of this qualified digit and survivor annuity coverage, however, if I do consent by signing below, I may not revoke my consent with NESSED. |
| hallenchage luglo-Dx |
| X Spouse Signature |
| Section H. Plan Administrator Information and Signature |
| Vested 1/6: 1000 Ruplayment status: A Terminated 9/4/07 Retired - Retired - Retirement Date |
| Have all contributions been remitted? [D'Yes, L] No. |
| Poriod end date of final contribution U/30/07 (Processing will be delayed until final contribution is received.) |
| Note This distribution request cannot be processed unless all applicable sections of this form have been completed |
| t certify that the information provided on this form is correct and complete, this transaction is permissible under the plan, and that any required consents and waivers have been obtained |
| X Acue Que 9/10/07- Plan Administrator Signature 1946 |

Distribution Request Termination of Employment/Retirement

| Instructions | and the state of t |
|--|--|
| m | tin any required signatures, and return the form to Transamerica at the above gible settlement plan; instead complete a Direct Rollover Request (Form No in rolling over your account balance to a Transamerica IRA. |
| Section A. Employer Information | |
| Company/ Com Unity Leading Inc Employer Name | |
| Contract/Account No. Affiliate No. | Division No |
| Section B. Participant information | |
| Last Name PHAM | Date of Birth |
| Litzt Name/WI | Social Security No |
| Mailing Address | |
| City | State |
| Zip Code | |
| Phone No /Bxt. | |
| E-mail Address christian plant@commitylending.com | |
| Section C. Distribution Information | |
| Reason for distribution: Termination of employment | |
| Amount of distribution: 100% or []s, rem | nainder to be: Left on deposit Other |
| Distribution Options | • |
| Leave lunds on deposit | Floxible Distribution Options (available if leaving finds on deposit) |
| Purchase annuity | Fixed Payment \$ (amount) |
| Lump sum distribution | Fixed Payment overyears |
| Partial distribution | Life Expectancy Single I loint (proof of spouse's age required) |
| In-kind distribution of any employer stock (distribution will be in full | Payment commencement month: |
| shares only; partial shares will be paid in cash) | Payment frequency: |
| Deposit Iransfer Corp. No. (from new financial institution so stock can be transferred without issuing certificates) | Monthly Quarterly Semi-Annual Annual |
| Note. Please refer to your Swinnary Plan Description or contact your Plan A waitable under the plan | dministrator for more information regarding the distribution options that are |
| Payment Options | |
| Check or Wire transfer (Complete information below only if we distribution of at least \$5,000. Any distribution less t | ire transfer option is selected. Optian avallable only for lump sum or puetial thar \$5,000 will be processed in the form of a check.) |
| ABA No | |
| Institution Name | |
| institution Address | |
| Account Name | |
| Account No. | |
| men at a country to the touristical beautiful from | |
| Control of the state of the sta | |
| (1-0) this is clear mitou of the season with eart trans | samerica for additional information) |

Note If one of the above payment options is not selected, this distribution will be pre



| Section D. Outstanding Loan Options (if applicable) |
|--|
| For any outstanding loan(s) at the time of my termination of employment/retirement, I elect to: |
| Pay off the loan(s) (Call Transamerica to verify loan payoff amount and procedure prior to submitting this form.) |
| Continue loan repayments via loan coupons (Available if funds are left on deposit and if allowed by the plan Call Transamerica for further information) |
| Default the toan(s). I understand that a taxable distribution will be reported to the IRS as indicated in the Special Tax Notice Regarding Plan Payments |
| Note: If one of the above aptions is not selected, any outstanding loan(s) will be automatically defaulted in accordance with federal regulations |
| Section E. Tax Withholding Election |
| Minudatory Federal Income 1 ax Withholding - If this distribution is an eligible rollover distribution, 20% mandatory federal income tax withholding applies unless the distribution is paid as a direct rollover to an eligible retirement plan or IRA |
| Optional Federal Income Tax Withholding - If this distribution is not an eligible collover distribution, 10% federal income tax will be withheld unless you cleet otherwise. If this distribution is subject to the 20% mandatory federal income tax withholding, do not check below since it does not apply |
| The not withhold 10% antional federal income tax |
| State income 1 ax Withholding - Withholding is mandatory in some states. Other states allow an independent election and in these states, state tax will be withhold unless you elect otherwise. |
| Do not withhold state income tax (if independent election is permitted) |
| Section F. Participant Signature |
| Please note: Any person who knowingly and with Intent to defraud any insurance company or other person files an application for insurance or statement of claim from a group annuity contract issued in New York containing any materially false information or conceals for the purpose of misteading, information concerning any fact material thereto, commits a fraudulent Insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed \$3,000 and the stated value of the claim for each such violation. States other than New York also have insurance fraud statutes which impose menalties for any violation thereof. |
| For Married Participants: I elect to waive qualified joint and survivor benefits (if applicable) with respect to the amount to be withdrawn from the plan, I understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public understand that this waiver is not effective without the written consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the taxable portion not rolled over I have received and read the Special Tax Notice Regarding Plan Payments. I certify that the information provided on this form is correct and complete over I have received and read the Special Tax Notice Regarding Plan Payments. |
| X Participent Statistics Date Date Print Name and Social S |
| Participant Signature Date Print Name and Social Social Social Social Print Name and Social S |
| Section G. Spousal Consent (If applicable) |
| consent to my spouse's waiver of joint and survivorship benefits with respect to the amount to be withdrawn from the plan. I understand that this consent neans that I will not receive any survivor henefits under this plan upon my spouse's death with respect to this amount. I understand that I do not have to neans that I will not receive any survivor primity coverage, however, if I do consent by signing below, I may not revoke my consent consent to the waiver of this qualified joint and purvivor primity coverage, however, if I do consent by signing below, I may not revoke my consent WIINESSED |
| mal by chall langers |
| Spoune Signature Date Date Plan Administrator Signature or Notary Public Signature and StompSteal Date |
| Section H. Plan Administrator Information and Signature |
| /asled %: 108% Employment status: Derminster 9/4/07 [] Retired Retirement Onte |
| fave all contributions been remitted? Tyes Dyo |
| eriod end date of final contribution 6/30/07 (Processing will be delayed until final contribution is received.) |
| inte. This distribution request cannot be processed unless all applicable sections of this form have been completed. |
| certify that the information provided on this form is correct and complete, this transaction is permissible under the plan, and that any required consents not waivers have been obtained |
| Dunden 9/10/07- |
| Plan Administrator Signature Water |

10/11/2007 12:20 PM PAGE 1/002

| DEC. 29. 20061 5:07PM 7148413852 | . JAAC | NO. 4120 | P. 11 83/84 |
|--|---|--|---|
| TRANSAMERICA GUERNAMENT JERVICEI GUERNAMENT JE | MODORA MODORA | ilified Deferred Con Termination Distri | apensation Plan |
| Gesternations Campine all applicable configur of this Form and return is | | | |
| SECTION A: Employer information : 1882 | | | 102 Adres sectorifé |
| Com Unity Londing, | Tr. | Indust Bleedon II G | lange of Prior Election |
| 1 Annual Sa Annual Sta Churche Ma | 1 | | |
| SECTION D. Participant Information | | | |
| Last Feer | | -DRITO DAGE | · |
| とならんのと | | 191,7 | |
| Are The Anthropica No. | | Finne No | 584. (E. Sent) |
| | Er Cela | HONESHOCK | ENDINE M |
| SECTION C. Distribution Election | | | |
| i request that lives that fortions of my defined compensation (following appear of termination of employment (Note: Not all o your plant, plants ton your Employer): | frienzsy, be exclable price had been greated to the first the firs | o lopau let impoi information do Les (productions par la des | oblices offered more tracesci in the |
| D Single was distribution Manual installment payor | entrores 5 (whole) years* | (5 years inacinum) | |
| Note: In accordance with IRC Section 409s, the form of distribution of the configuration. Availability of the above options and ability to state the configuration of the configuration and ability to state the configuration of the configuration. | tion must be specified (and elected) usuge the form of payment may deat henging your election). Your plant | and compail to anjourn als grays and ou bjou bloodigns als gray ding ou bjou bloodigns als grays | t defend of such ton 409A . (See Section out providen motor it |
| Distributions may be delayed for depoted of a southernier a sing | र्वे स्व १००० व्या के का है जाती में बोर्डा के वे | स.स. प्रेरेज प्रातृतिपृष्ट स्मृतिस्ति हे | a Santian Albig. |
| কৈও প্রতিয়েতিয়াওয় কাম্প্রেয়া মুক্তুজিন কৈ মুখী হয় ত্রুও ক্রিয়েকের চ্যুক্তুজনারটা election. | | | |
| It am hint eligible us of 2007 or lane, my distribution will be set | ld in a single sum distribution. | 1 | |
| SECTION D. Change of Prior Election | | | |
| I see also my coloding eduction and request that forme distributions compleyment (Note; Not all options may be available under your p lamplayer): | of defeared consensation be resour Just for flatter information on opti- | esed in the following memoral of the affered under your plan, plan | sec ses Aoni musicações eq. |
| Single sum distribution 🔲 Around installment payme | ज्यांत कारतः <u>(अकेको</u> क) पुरस्ताः | (Sytas pistrous) | |
| Note: in accordance with IRC Section 409A, the form of distributed comparation. Availability of the store actions and whiley to the may contain an automatic cash-out provision and while it may limit you have not provided the provision in a subject to the following other for distributions: | | • • • | deferred of such a 407A . Your plan to a change in the at one made after \$1007; |
| उँभक्षे दोव्यकि स्कृति के व्यक्तिकार विकास 12 कार्यक. | अंदिर केर बेटीट के महिद्दी किर टॉस्ट्रॉक्ट | is nowie. | |
| o Except in the trace of distributions due to death, disability for payment much otherwise times been made, and | | | |
| o An election related to a chiral principal to be made upon a s to the doze of the list acheanted principal it is seen to | हेक्सीको संसद्ध का प्रवासकार के के किसते। जन्मे कोस्पर्वेश | schedule may not be ausia jeus : | than 12 months galor |
| The control of the decriped of a property of the property of t | libration date if you are decayed to be | e "lay compleyer" on defined in | Serios 409A |
| o und electron o und electron | | us gaganaga tambanaga taman | ः व्यक्तिकार्येण्योषु कार्यस्य |
| lf I wa hipe eligible as of 2007 or blue, my cikinbulun will be peld | | | |
| House Secreta (arealist) del appointe a sella del diffici | Plant Straggers | | |
| | | | |
| | | | |

10/11/2007 12:20 PM PAGE 2/002

| | | | سندب به ده رسی کا شد، شهریب |
|--|---|--|---|
| DEC 29. 2006 1 5:07PM 7148413852 | JANG. | NO. 4120 | FAUE 84/84 |
| | | | |
| SECTION E 10 Company | | - | |
| SECTION E. In-Service Withdrawal (complete | Form Number 329 | 1) | |
| If provided in my plan, I must elect any in-service withdrawals for def compensation. If I do not make an in-service withdrawal election, I we complete Form 3294. | | | |
| SECTION Fline Section 409A Disclaimor ANN | | Employed and asset | |
| I hereby acknowledge that the plan is subject to, and may be amended distal, with regard to my compensation (and comings thereon) defermed Socials 409A imposed extrain requirements with respect to the defermed admitted in conform with non-inequisionaris casy result in immediate to 11, 2004 (and of amount defined affect is such take that are applicated and modifications to such above, in order to conform until climical page of receiving plant. | or restained to conform with | the Austrian John Creation Auto | (2004 (INC Section |
| Section 409A imposes pertain requirements with respect to the deferral | साम किशीसम्बद्ध के संदर्भ दृश्यां विकासको सम्बद्धा के ४६० | es) after Distriber 31, 2004, I for sei ampunicame the Enium of arc | िरंड प्रयोग वर्ष होता किया है। इंदियार्ग की होता किया है। |
| II. Mini of an analysis control of the last state of the last stat | s high attential to on parties of | of health in being incoming to the left of the second of the left of the second of the | erai eller Despuber Primuse I voll mako |
| park of secretary bytes | LANGTON GOTTON GRAVA L | minimosaja ang Ayur (ye beogleje) | s of an imended, |
| SECTION G. Signatures | | | |
| i three to the terms of the plan. I am aroun that amounts deferred under this election must be executed prior to the scheeting year in which the intellectual lightings. I understand that green termination of my employment termination and executing to the terms of the plan. I understand that it is with its guidelines. I cartily that the information provided on this form | this type of plan are incini come in haddlesed is com it, my account will be obtain a lacket and complete a lacket and complete | ed in my employer's general assets babel seconding to my election ma subject to ERS repeating and with | . I suderimal that o 30 days of my de julier is my widing in sees adonce |
| MAI NAMEN | | | |
| Par Propositioner | | | |
| X - | 10 . 90 . 10 | | |
| Part-styles Septimber | 12.29.04 | | |
| X Backeral Residence 12 | 2/29/01 | 4 | • |
| • • | 7470 | . , | |
| | | | |
| | | • | |
| | | | |
| | | į | |
| | | ļ | |
| | | 1. | |
| | | | |
| | | | |
| | | ! | |
| | | | |
| | | ţ | |
| | | • | |
| THE THEORY OF THE THEORY OF THE PROPERTY OF TH | | | |
| THE THE PARTY OF THE PROPERTY OF THE PARTY O | Exact | | |
| • | | | |
| | | | |
| | | | |

10/11/2007 12:24 PM PAGE 1/002

| TRANSAMERICA CONTROL NOTICE CONTROL | Distribution Request Termination of Employment/Retirement |
|---|--|
| Instructions | I also been and about the Boot to Processories at the about |
| Co request a distribution, complete all applicable sections of this fixes, obtain aldress. No real use this form to request a direct reliever to an IRA or an eligi 1214-TA), or log on to wave to-redizement som for forms and information on | any required ageratics, and recent the Others Rollover Request (Form No. the retrempts plant instead complete a Direct Rollover Request (Form No. relling over your account belance to a Transamerica IRA |
| Section A. Employer Information | |
| Company/ Com Unity Leading Bis. | reside Colonia Colonia |
| Construct/Account No. Transaction Affiliate No. | Division No. |
| Section B. Porticipant Information | Dam of Birth 11-29-75 |
| 1 281 Mants MUVIEW | Social Scounty No. |
| Pin Namo Mi KA | The state of the s |
| Mulling Address | Reservation to the second statement of the second stat |
| City | Side States of the state of the |
| Phase No JEst | |
| E mail Address Instanton Commission Police St | ADCLENDING COM |
| Saction C. Distribution Caferination | the manufacture for the party of the Contract |
| Remain for distributions X Termination of employment 🔲 Retir | ement . |
| American of distributions M 100% or USremi | einder to be: Direct on deposit O'Other |
| Matribution Options | |
| I I care funds on deposit | [] Flourble Distribution Options (avadable of leaving fluids on deposit) |
| Purohuso anatiny | Fited Payment \$(known) |
| Lump sum distribution | Fixed Payment overyears |
| Partial distribution | Life Expectancy Single Digit (proof of spower age required) |
| In kind distribution of any employer stock (distribution will be in full shares will be paid in society. | Payment seminous ments Payment frequency |
| Deposit Transfer Corp. No. Gram now financial institution | Taymana mequancy: |
| to stock on by transferred without transferred; Note: Pierre rule: to some Summary Plan Description as contact your Plan A | distinuturator for more information regarding the distribution options that are |
| wallable ander the plan | |
| Payment Options | |
| Chack or Wire transfer (Complete information below only if w | ire transfer option is selected. Option evaluate only for lump sum or partial than \$5,000 will be processed in the form of a check.) |
| ABA No. | |
| Institution Name | |
| Indiction Address | والمراجع والم |
| Account Name | والمراجل والم |
| Accress No. | |
| "Further Credit To" Institution Name (For wire to credit enter or everyoes bank, call Tra | nsomerica for additional Information.) |
| Note: If one of the above paymont options is not selected, this distribution wi | |
| · · · · · · · · · · · · · · · · · · · | Constitution of the consti |
| | 114747971142 |
| | |

10/11/2007 12:24 PM PAGE 2/002

Central Standard Time

| | . Untertaining Lossin Ci | pilons (if applicable) | | | | | |
|--|--|--|--|--|--|--|--|
| lise only out | standing leasts) at the time | e of my knowination of | នាទ្រាំឲ្យវាយប៉ុន្មែ | irement, l'el | oct so: | | |
| - | the loan(s). (Gall Transan | | | | | s form.) | |
| | | | | | | Call Transamerics for farths | r (nformation.) |
| | | | | | | pocial Tax Notice Regardin | |
| | | | | | | ordance with federal regula | |
| | Tax Withholding Elec | | | | | | |
| Mandatory opplies unlo | Federal Income Tax Wi sa the distribution is paid : | this distributed in a control of the | n eligible setire Significa is an eli | igible rollow ment plan or | er distribution, 20% na IRA. | ndatory federal focusions tax | withholding |
| Optional Ri you decroi | edorisi incasno Tax Withi korwiso, il this distribution | holding - If this distrit of a subject to the 20% | ention is not an e containty fede | rollos skilgili d amosoi les | ver distribution, 10% fo ux withholding, do not | sdaral fincome mx will be wo check below tince it does n | istiseld enters of apply: |
| | withhold 1996 optional fed | | | | | | |
| withhold un | lors you sloot otherwise. | - | | Other states | distration as works | election and in these seases, | strac son mas so |
| 4.5 | withhold state income tax | | n ixpamilled) | | | | |
| | Participant Shipature | | | | | an application for insuren | |
| MARKET STATE | दामाटडामधानु ११६५) (वटा मधार) १८ तबली फिन स्टार्क्ट प्रत्येक हर्री | rick thereto, commits a the claim insucch suc | r Ferrandorfeand fearce | -received and | se information, or con rich is a crime, and she New York also have b | ns also of minject to a crui Isonomos franci statutes, whi | ch impose |
| penalites for For Marvie orderstand i | Po and the stated value of i sany violation chereof. It Varitel paster is not either that this seriver is not either tick paster. I maderatood th | on I was the city and with white distributions the within the with the city of | i Francistent Insur h violation: State and aurely or bon to content (if ap | rimes cel, wi es either from cellus (if appl plicable) of c n in the 1885 | tich is a crima, and she New York also have it icable) with respect to my spouss, witnessed it and say amsonilate in | the amount to be withdraw by my Pian Administrator or norma tures on the terrible or | n from the plan. Ta Motery Public Callon not rolled |
| penalites for For Marvie orderstand i | Po and the stated value of i sany violation chereof. It Varitel paster is not either that this seriver is not either tick paster. I maderatood th | on I was the city and with white distributions the within the with the city of | i Francistent Insur h violation: State and aurely or bon to content (if ap | rines oct wi er eiter from callin (if appl plicable) of a n to the IRS cats I corolly | rich is a crima, and sin New York also have it icable) with respect to my sponse, witnessed is and pay appropriate in that the information p | the amount in to withdraws the amount in to withdraws and Plan Administrator or | n from the plan. Ta Motery Public Callon not rolled |
| penalites for Por Marvie orderstand i | Point the stated value of in any whitether in the case of the transfer is not elife the transfer is not elife the party in the case of the party is not elife the party in the special of | on I was the city and with white distributions the within the with the city of | Formulent brau h violation. State and nurvivor bon to content (if no this distributio ding Plan Payme | rines oct wi er eiter from callin (if appl plicable) of a n to the IRS cats I corolly | rich is a crima, and sinch is a crima, and sinch is a crima, and sinch is a crima with respect to my sponse, witnessed is and pay appropriate in that the information property and the informa | the amount in he withdrawn by my Plan Administrator or some taxes on the texable provided on this torm is corn | n from the plan. Ta Motery Public Callon not rolled |
| penalitics for Marrie and marrie and marrie for All Far over 1 have | 19 and the stated value of it any stated and accepted any stated paster is less to hat this waiver is not effect followers. I understand the received and read the Spenior of the paster of the speniors of the stated and read the st | walve qualified joint with with the without the with out the with | i Francistent Insur h violation: State and aurely or bon to content (if ap | rines oct wi er eiter from callin (if appl plicable) of a n to the IRS cats I corolly | rich is a crima, and sinch is a crima, and sinch is a crima, and sinch is a crima with respect to my sponse, witnessed is and pay appropriate in that the information property and the informa | the amount to be withdraw by my Pian Administrator or norma tures on the terrible or | n from the plan. Ta Motery Public Callon not rolled |
| penalites for For Marrie endonaned i For All Par over 1 have X Section G. | 19 and the stated value of it any stated and accept to any stated parties it elect to that this waiver is not elfoc ticlpants; I understand the received and read the Spenger Spatian Consent (flag | walve qualified joint this without the without the without the without it reported Tax Notice Regard | Grandulent brau hydrinen: Shirt and aurelyor bor on convent (if ap it this distribution ding Plan Payme | rance cal, wi er other from wills (if spoil plicable) of a n to the IRS- eats. I scrally | itch is a crima, snatsk New York also have be icable) with respect to my spotses, witnessed is and pay appropriate in that the laformation pr | the amount in to withdraws by my Plan Administrator or some taxes on the lastile provided on this form is corn and formal Security Nuclea | n from the plan, a Mostry Public ording not rolled and complete |
| penalites for For Marrie understands For All Par over 1 have X Section G | 18 and the stated value of it any shoteston thereof. I Varitie panion is cleek to that this waiver is not elfoct ficipants. I understand the received and read the Spenions of School Spanish Consent Glap my spouse's waiver of Join | we've qualified joint : where qualified joint : where without the writt and I may have to report and the Motive Regan | Granduled brau A violation Sun and survivor bon to content (if up this distributio ding Plan Payant base patitis with respe | rance cal, with control of a policebies of a policebies of a natural security. | itch is a crima, end sinc. New York also have in icable) with respect to my appropriate in that the laformation property is the first the laformation property in the first three in its angle of the laformation property is the laformation of the laformation in the with respect to his a do consent by signing it | the amount in he withdrawn by my Plan Administrator or some taxes on the texable provided on this torm is corn | n from the plan. a Motory Public control not rolled cot and complete that this consent to not have to |
| penalites for For Marrie ordendands For All Far over ! have X Section G | 18 and the stated value of it any shoteston thereof. I Varitie panion is cleek to that this waiver is not elfoct ficipants. I understand the received and read the Spenions of School Spanish Consent Glap my spouse's waiver of Join | we've qualified joint : where qualified joint : where without the writt and I may have to report and the Motive Regan | Granduled brau A violation Sun and survivor bon to content (if up this distributio ding Plan Payant base patitis with respe | rance oct with a color from the colo | itch is a crima, end she New York also have he icable) with respect to my sponse, witnessed is and pay appropriate in that the information po The literature Print Starse count to be withdrawn in the with respect to his a do consent by signing it | the amount in to withdrawa by my Plan Administrator or some taxes on the texable provided on this form is corr and Samel Security Number | n from the plan. a Motory Public control not rolled cot and complete that this consent to not have to |
| penalites for For Marrie sudensined i For All Far over 1 have X Section G 1 consent to means that connect to y | 19 and the stated value of it any shoteston character and elect to hat this waiver is not allow ticipants: I understand the received and read the Specific Control of the Specific Spatial Consent (Language of the Control of the United Spatial Consent (Language of the United Spatial Cons | waive qualified joint to the waite without the waite and the waite and Tax Notice Regardification and survivership be very benefits under this joint and survivers and joint and survivers and survive | of conducted broad with the content (if ap 1 this distribution ding Plan Payers | rance oct with a color from the colo | itch is a crima, end she New York also have he icable) with respect to my sponse, witnessed is and pay appropriate in that the information po The literature Print Starse count to be withdrawn in the with respect to his a do consent by signing it | the amount is to withdrawn by my Plan Administrator of the states on the invalle p tovided on this form is corr and Sacral Security line ba tom the plan. I understand it topush, I understand that I d below, I may not movie my | in from the plant, a Motory Fubition of rolled complete and the complete |
| penalites for For Marrie sudensined i For All Far over 1 have X Section G 1 consent to means that consent to y | 18 and the stated value of any stolection absenced. I Variticipanter it cleek to that this waiver is not elfoc ticipanter i understand the received and read the Spence observed. Spence of this control of will not received any surely will not received any surely to woiver of this qualified. Spence Shundard. | waive qualified joint to the waite without the waite and the waite and Tax Notice Regardification and survivership be very benefits under this joint and survivers and joint and survivers and survive | Granduled branch of scientists and survivor borns on content (if the state of the Payme Date of the Payme of | rance oct with a color from the colo | itch is a crima, end she. New York also have be icable) with respect to my sponse, witnessed it and pay appropriate in that the leformation property of the leformation property of the leformation by withdrawn it is with respect to his a do consent by signing the consent by signing the leformation of the leformation | the amount is to withdrawn by my Plan Administrator or by my Plan I some is correctly below is comby there below is may not absolve my below, I may not absolve my by the plan I supported that I of below, I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I my by the interpretation of th | n from the plan. a Motory Public orthos not rolled not and complete that this consont to not have to consont. |
| penalties for For Marrie sudensand's For All Far over 1 have X Section G 1 consent to means that consent to t X Section H Vessed %: | 18 and the stated value of any stolection absenced. I Variticipanter it cleek to that this waiver is not elfoc ticipanter i understand the received and read the Spence observed. Spence of this control of will not received any surely will not received any surely to woiver of this qualified. Spence Shundard. | waive qualified joint : whive without the writt and I may have to report and the report and the report and the report of th | Granduled branch of scientists and survivor borns on content (if the state of the Payme Date of the Payme of | rance out with a control of the cont | itch is a crima, end she New York also have he icable) with respect to my sponse, witnessed is and pay appropriate in that the information po The literature Print Starse count to be withdrawn in the with respect to his a do consent by signing it | the amount is to withdrawn by my Plan Administrator or by my Plan I some is correctly below is comby there below is may not absolve my below, I may not absolve my by the plan I supported that I of below, I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I may not absolve my by the interpretation of the plan I my by the interpretation of th | in from the plant, a Motory Fubition of rolled complete and the complete |
| penaltics for For Marrie sudenstand i For All Par over 1 have X Section G. 1 consent to means that consent to Y X Section H. Vessed %: Have all con | B and the stated value of it any shotation thereof. I Variticipanter it cleet to hat this swiver is not elfoc ficipanter. I understand the received and rend the Spenissal Consent files my spouse's waiver of join my spouse's waiver of join will not meet we any new to waiver of this qualified. Spenissal Consent files waiver of join will not meet we any new to waiver of this qualified. Spenissal files qualified. | waive qualified joint to the write the write the write and I may have to report the Kran Hotice Regard to the Hotice Reg | of conducted broad vision of vision | range out with a control of the cont | ich is a crima, end she New York of so have it icable) with respect to my spotses, witnessed it and pay appropriate in that the information pr Richtene count to be withdrawn it is with respect to him a do consent by signing it is so information Spotsess Roter Technical inter | the amount in to withdrawa by my Plan Administrator or by my Plan Administrator or by my Plan Administrator or by my Plan I form is corr and formi Security Musba some the plan I understand that I of below, I may not movine my Public Sepanne and Streptoni Rectifed Rectifed | is from the plan. • Motory Public onthon not rolled oit and complete that this consent to not have to consent. |
| penaltics for Por Marrie sudensined i For All Far over 1 have X Section G 1 consent to means that consent to t X Section H Vested K; Have all cur Penalty and cur | B and the stated value of any shoteston character teles and a least to hat this waiver is not allow the least to the least | waive qualified joint with a write without the write and I may have to Regard the Notice Regard the I may have benefits under the joint and surviver and followed the Joint and surviver and Research the Notice Regard the Notice R | of conducted broad vicinities. Shift with respect to this distribution ding Plan Payme Plan Payme a plan upon my a plan upon m | mana oct with a control of a co | inch is a crima, end she New York also have he icable) with respect to my sponse, witnessed it and pay appropriate in that the information pr Print there count to be withdrawn it is with respect to this a do consent by nighting it is still be delayed until fin | the amount is to withdrawn y my Plan Administrator of y my Plan Administrator of the states on the tensile p rovided on this form is corr and Sarah Security Humber tom the plan. I understand that I d below, I may not movie my Plant Strange and Strappool Resired Resired | is from the plan. • Motory Public onthon not rolled oit and complete that this consent to not have to consent. |
| penaltics for Por Marrie sudenstand i For All Par over 1 have X Section G. 1 consent to means that 1 connent to 1 X Section H. Vessed St. Have all cur Pecind and co | B and the stated value of any shoteston thereof. I Varitie paster is not effect to that this waiver is not effect to that this waiver is not effect to the sater. I understand the received and read the Special Spates of Pasteres Spates. Spates of Consent of any survive of this qualified waiver of this qualified. From Signature Value Administrator I. Land 220 definal contribution. Intributions request companions any survive of final contribution. | waive qualified joint with white without the write and I may have to Regard the Regard to Regar | of conducted broad with the content (if up this distribution ding Plan Payme Data apon my a plan | mana oct with more oct with a color from the series of a conflict oct to the entire | inch is a crima, enal sin. New York also have in leading with respect to my sponse, witnessed in and pay appropriate in that the information property is a second to the second to this a do consent by nighting its consent b | the amount is to withdrawn by my Plan Administrator of the mount interest on the tension to the first form is core and Sound Security House to make plan I understand that I de to the plan I u | n from the plan. a Motory Fubic entloy not rolled col and complete har this consust to not have to conson. |
| penaltics for Por Marrie sudenstand i For All Par over 1 have X Section G. 1 consent to means that 1 connent to 1 X Section H. Vessed St. Have all cur Pecind and cu I sortify that I sortify that | B and the stated value of any shoteston thereof. I Varitie paster is not effect to that this waiver is not effect to that this waiver is not effect to the sater. I understand the received and read the Special Spates of Pasteres Spates. Spates of Consent of any survive of this qualified waiver of this qualified. From Signature Value Administrator I. Land 220 definal contribution. Intributions request companions any survive of final contribution. | waive qualified joint with white without the write and I may have to Regard the Regard to Regar | of conducted broad with the content (if up this distribution ding Plan Payme Data apon my a plan | mana oct with more oct with a color from the series of a conflict oct to the entire | inch is a crima, enal sin. New York also have in leading with respect to my sponse, witnessed in and pay appropriate in that the information property is a second to the second to this a do consent by nighting its consent b | the amount is to withdrawn y my Plan Administrator of y my Plan Administrator of the states on the tensile p rovided on this form is corr and Sarah Security Humber tom the plan. I understand that I d below, I may not movie my Plant Strange and Strappool Resired Resired | n from the plan. a Motory Fubic entloy not rolled col and complete har this consust to not have to conson. |

Tree for \$150-Taller, \$1033 (Page 1 of 1)

Transmortes (Hane



10/10/2007 12:42 PM PAGE 1/002

mtral Standard Time

| TRANSAMERICA CONTROL 14 22 129 CONTROL 15 CONTROL | Distribution Request Termination of Employment/Refirement |
|--|--|
| Textractions To request a distribution, complete all applicable sections of this four, obtained from in request a distribution to see this form to request a direct rollower to an IRA or an eligible from the result of the resu | many required signatures, and return the form to Transmissive at the above pide retirement plan; instead complete a Direct Reliever Request (Farm No. a reling over your account values of a Transmissive IRA. |
| Company/ Com thely Leading has. Registry Name Commant/Account Na. Section B. Participant Information | Division No. |
| Last Name NOTIVEN | Date of Birth 11-08-72 |
| First Name/All HUNGPERKY | Social Security No. |
| Mailing Address | 2 |
| Car | State Land |
| Zip Codo | and controlled the second seco |
| Phone No Art. | A second as about the first and the second and |
| E-mail Address ALL PANNELLE MYALDOCCOM FIANT | Sho clear & up has com |
| Section C. Distribution Information | |
| Resson for distribution: (C) Termination of amployment | |
| Amount of distribution 12 100% or D\$ | usinder to be; 🔲 Leif on deposit 🔲 Other |
| Pistributian Opikus | |
| Leave finde on deposit | Traille Divisibation Options (aveilable if tending funds on deposit) |
| Purchase againty | Fixed Payment's (marent) |
| Lump som distribution | ☐ Fixed Payment over |
| Portlal distribution | Life Bupertuncy Single Delina (proof of spense's age required) |
| heliad distribution of any employer stock (Astribution will be in full shows employer stock (Astribution will be in full shows with the paid in cash) | Payment from the state of the s |
| Deposit Transles Corp. No. Grownsw financial esclasion, as each cost de manuferred without training confidential | Monthly Ouertorly C Semi-Annel C Assess |
| Note: Please refer to your Summany Plan Description or contact your Plan, available under the plan. | planialistratur for more information regurding the disorbotion options that are |
| Payment Options Wire transfer (Complete infiguration below only if a factorisation of an incipal statistic day distribution less ABA No. Institution Name Institution Address Assours No. *Purhas Credit To* Institution Name [For why to oredit union or outcomes Sant, cell Tre | when trensfer auton is valocied. Option available only for home sum or purital stam 33,000 will be processed in the form of a check.) are sumerica for additional information.) |
| Note: If one of the above payment options is not selected, this distribution w | |
| KOIE Y Guo ig am new is guyuwan ug | |

10/10/200/ 12:42 PM PAGE 2/002

| Section D. Oubstanding Long C | Options (feptically) |
|--|--|
| For any outstanding loan(s) at the til | ime of my inmination of employment/retrement, I stoot to: |
| Pay off the less(s) (Call Trans | numerica to write local payoff amount and procedure prior to submitting this form.) |
| Continue loss repayments via lo | ioan coupons. (Available if finds are left on depart and if allowed by the plan. Call Transmerica for further information.) |
| Deficult the loan(s). I understand | id that a morable distribution will be reported to the IRS as indicated in the Special Tex Notice Regarding Plan Payments |
| | moi schooled engrouteinming locato) will be entenuitedly defeated in accordance with federal regulations. |
| Section E. Tax Withholding III | intiles |
| | Withhelding - If this dictribution is an eligible collayer distribution, 20% mandatory federal income for withhelding Id as a direct collayer to an eligible retirement plan or IRA. The colline - If this distribution is not an eligible reliever distribution, 10% indeed income far will be withheld unless |
| Optional Federal Security and vision of the Property of the Control of the Contro | bbhalding - if this distribution is not an eligible reliever distribution. 10% indeed income tax will be withheld unless from is subject to the 20% mandatory federal income tax withhelding, do not check below since it does not apply |
| FT To not withhold 10% national 5 | federal income tax |
| withheld unless you elter otherwise. | |
| | us (findependent eleviton is paralited) |
| Section F. Participant Signatur | 10 |
| paradaks for any violance one sy- | ingly and with bited to defrant any insurance company or other person files on application for insurance or statement and issued in New York, containing any materially false information, or consecut for the purpose of instituting stated thereto, committe a freeziblent insurance oct, which is a crime, and shall also be subject to a pensay not to after claim for each such violation. States other than Here York also have becoming front states, which impose of the claim for each such violation. States other than Here York also have becoming front states, which impose |
| For Magnied Participants: I deci- | to waive qualified joint and souviror benefits (if explicable) with capacit to the exceed to be withdrawn from the plan. I Receive unitarist the written eccessis (if explicable) of my spouse, withoused by my Plan Administrator or a Notary Public. |
| For All Participants: [miderated | that I may have to report this distribution to the IRS and pay appropriate imcorn texas on the temble postion not miled Operal Tex Notice Regarding Plan Psyments. I cartify that the information provided on this form is correct and complete. |
| /) / | 9-06-07 Hung Nayon |
| X/1,ng /12 | Des Print Name and Social Security Number |
| Section G. Spound Commit (V | (annifethia) |
| I combat to my spanse's waiver of j | joint and survivorship bannits with respect to the amount to be withdrawn from the plan. I understood that this consent triver bandin under this plan upon my spounds death with respect to this amount. I understood that I do not have to sed joint and servivor annuly coverage, however, if I do consent by signing below, I many and process my comment. WITNESSED |
| | Date Pion Africa journal Stagesters on Montaly Frields Sequence and Stages State Dates |
| X | Date Plant Administrator Algorithm of Maring Public Street Congress and Congress Land |
| Specie Signatur | |
| Section H. Plan Administrator | r Information and Signature |
| Saction H. Plan Administrator Ventral M: JDD To | Employment states Teconimisted 9/4/07 Retired Reference Date |
| Section H. Plan Administrator Versed W: LDD Co Have all contributions been remitted | Engloyment states Transmitted |
| Section R. Plan Administrator Vered W: | Employment source Transmitted 9/4/07 Retired Ret |
| Soction R. Plan Administrator Vered W: LDD 20 Have all contributions been munited Period and date of final cantillusion Note: This citat ibution request care | Employment sature Employment sature Transmitted |
| Section R. Plan Administrator Vered W: | Employment source Transmitted 9/4/07 Retired Ret |
| Soction R. Plan Administrator Vered W: LDD 20 Have all contributions been munited Period and date of final cantillusion Note: This citat ibution request care | Employment sature Timinated 9/4/07 Retired Retired Retirement Date of 1 (4 for 1) No (2) Proceeding will be delayed will final contribution to received) a Le 30/07 Proceeding will be delayed will final contribution to received) most be processed unless all applicable sections of files from have been completed. The figure is correct and complete, this transaction is permissible update the plan, and thereany required consents |
| Section R. Plan Administrator Vered W: | Employment status Transmitted Transmitted Retired Retired |
| Section H. Plan Administrator Verned M: LDC Co Have all contributions been remitted Period and date of firmi contribution Mote: This distribution request carrie I cortify that the information provide and waivers have been obtained X. Quee L | Employment status Transmitted Transmitted Retired Retired |
| Section H. Plan Administrator Verned M: LDC Co Have all contributions been remitted Period and date of firmi contribution Mote: This distribution request carrie I cortify that the information provide and waivers have been obtained X. Quee L | Employment status Transmitted Transmitted Retired Retired |

10/10/2007 1:12 PM PAGE 2/003

| TRANSAMERICA CONTROL OF THE PARTY OF THE PAR | Distribution Request Termination of Employment/Retirement |
|--|--|
| Instructions | · |
| To request a distribution, complete all applicable sections of this firm, obtain address. Do not use this form to request a discot sufferer to an IRA or an eligi 2214 TA), or log on to www.ts-suirement.com for forms and information on | any pequited signatures, and return the form to Transamorica as the above his retirement plan; instead completo a Direct Rollover Request (Form No rolling over your account inhance to a Transamedias IRA. |
| Section A. Employer Information | The state of the s |
| Company/ Cons Unity Lending Inc. Employer Name | Division No |
| Contract/Account No. Affiliate No. | Division to (, , , , , , , , |
| Section H. Participant Information | |
| Lock Name (NGUYEN | Ders of Birth 11 - 65 - 72 |
| First Nume/MI HUNG PERRY | Social Security No. |
| Mailing Address | Stato |
| Zip Codo | Section of the second of the s |
| Phone No /Ext. | The second secon |
| Brasil Address (ALLEY MANAGER STATES AND THE STATES | 160 clear le cyanos, com |
| Section C. Distribution Information | \$ |
| Rosson for distribution: Termination of employment . Retir | apent . |
| Americant of distributions 100% or 15 reserv | incier to be: Left on deposit Conter |
| Distribution Options | |
| Legvo funds on deposit | [] Pleasible Distribution Options (eventable if leaving funds on deposit) |
| Puroleus munity | Fixed Payment S (amount) |
| M Lump sam distribution | ☐ Pixed Payment over |
| Partial distribution | Life Expectancy Single Stellet forces of appearer age required |
| In-kind distribution of any sumpleyes stock (distribution will be in full where only; period shares will be paid in early | Payment commencement membe |
| Deposit Transfer Corp. No. from new forested institution to stock ban be transferred without heating conflictual | Payment frequency: Menthly Quarterly Serai-Annual Annual |
| Note: Please refer to your Summary Plan Description or conduct your Plan A wealable made the plan. | desintetratur for more information regarding the distribution aptions that are |
| Payment Options | |
| K/or . Value of land of the state of the | tre transfer option is selected Option available only for lump stan or partial |
| distribution of at least \$5,000. Any distribution less | han \$5,000 will be processed in the form of a theck) |
| ABANO ABANO | |
| Institution Name | |
| Institution Address | |
| Account Nama | , |
| Account No | |
| "Puther Credit To" Institutes News (For wire to credit wifen or overseas back, call Trai | ssumerica for voids loval information.) |
| Note. If one of the above payment options is not estocted, this distribution wil | I be processed in the form of a check |

10/10/2007 1:12 PM PAGE 37003

| Section D. Outstanding Laun Options (Fapplicable) |
|--|
| For any outdinating local(s) at the time of any tamination of employment/refreshest, I elect to: |
| Pay all the locals), (Call Transmentes to verify local payoff unroad and procedure prior to submitting this form.) |
| Continue lean repayments via lean compone. (Apollobie of funds one left on deposit and if ellimed by the plan. Call Transment of for further information.) |
| Definitive loss(s) I medentiani that a motivie distribution will be reported to the IRS as indicated in the Special Tex Notice Regarding Plan Payments. |
| Note. If one of the above options is not selected, any outstanding locally will be extensitively defaulted in accordance with federal regulations. |
| Section E. Tex Withkelding Einstion |
| Minulatory Bederal Income Tax Withholding - If this distribution is an eligible collisser distribution, 20% mandatory federal income tax withholding applies unless the distribution is paid as a direct collect to distribute the distribution is paid as a direct collect to a selegible recursors than or IRA. |
| Optional Nadoral Income Tax Withinsiding—Afthis cistribution is not an eligible collover distribution, 18% federal income tox will be withheld unless you elect otherwise. If his distribution in subject to the 20% mendatory federal income une withinsiding, do not cleok below tinco it does not apply |
| Do not withhold 10% optional federal income no: |
| State Income Tier Withholding - Withholding is mandakery in some states. Other states allow at independent election and in these states state terr will be withheld unless you clost otherwise |
| Do not withhold state insome tax (Il independent alsotion is permitted) |
| Section F. Participant Signature |
| Please note: Any person who knowingly and with intent to defenced any insurance company or other person files an application for insurance or statement of claim from a group commity contrast lessed in New York, constaining any materially false beformation, or consecute for the purpose of archivesting, offermations concurring any fact material fractes, consults a fraudulent insurance act, which is a crime, and civill also be subject to a civil penalty not to crease \$5,000 and the attack of the claims for each such violation. States other than New York also have bestraven fraud stabilities, which impose penalties for any violation the coef. |
| For Married Participants: I elect to waive qualified joint and survivor benefits (if applicable) with easpect to the emount to be within was from the plan. I understand that this variver is not effective without the writes consent (if applicable) of my spouse, wherever do my Plan Administrator or a Notary Public |
| For All Participants: I understand that I stay have to report this distribution to the IRS and pay appropriate income taxes on the facable portion not rolled over I have received and country Spacial Tax Notice Regarding Plan Payments I cartify that the follamation growided on this form is correct and complets. |
| Mus nufflestation of 9-06-07 Hune Nayon Brillians Victoria |
| Section G. Spousel Consent (Lampitedia) |
| I consent to my spours's water of joint and sarrivorship benefits with respect to the amount to be widedness from the plan. I understand that this consent means that I will not receive any survivor benefits under this plan upon my spoure's destit with respect to this ansume I understand that I do not have to consent to the water of this qualified joint and sarrivor samply coverage, however, if I do consent by alguing below, I may not revoke my consent. WINDESED |
| x x |
| Speccy Signature Date Five Administrator Signature or Holony Fitche Signature and Statespool Cale |
| Section H. Plan Administrator Information and Signature |
| Verted %: 100 Employment strike: Teminasted Teminasted Retired Balancest Date |
| Have all contributions bean remitted? |
| Pariod and these of final contribution (0/30/07 (Processing will be delayed until final contribution is received.) |
| Note. This distribution request conunt be proceeded unless all applicable sections of this form have been completed. |
| I certify that the information provided on this form is correct and complete, this transaction is permissible under the plan, and that any required consents and waivers have been obtained **Much Super Grant Grant Superior Super |



10/9/2007 8:19 AM PAGE 2/003 Central Standard Time

| • | |
|---|---|
| • | · . |
| | |
| TDANTCANACOTCA CONTRACTOR | Distribution Request |
| RANSAMERICA Constitute ALEXON STREET REMEMBER TO SERVICES SHEET REMEMBERS AND SERVICES SHEET | Termination of Employment/Retirement |
| BIR RELIABIRENT DEATHOR | |
| Instructions | which air reference and referent that forms to Transcattering at the above |
| To request a distribution, complete all applicable sections of this form, which a address. Do not use this form to request a direct relieves to an IRA or an eligib 2214-TA), or log on to wave the extraordiscion for forms and information on n | my returned agreement, instead complete a Direct Rollover Request (Form No. reliang every your recount balance to a Transposeries IRA. |
| Section A. Employer Information | |
| Company Com Unity Leading for. Employer Name | |
| Contract/Account No. Affiliate No. | Division No. |
| Section B. Participant Information | |
| Last Name PHAM | Dete of Birth |
| First Name/MI MAIC | Social Security Ho. |
| Mailing Address | |
| | State . |
| Zip Code | |
| Phone No./Ext. | |
| E-mail Address christian phan@connectrylander.com | |
| Section C. Distribution Information | |
| Resson for distribution: Termination of employment Retire | ement |
| ₩ 🖂 | sinder to be: Left on deposit DOther |
| Amount of distribution: A 100% or LA | • •• |
| | |
| Distribution Options | i (*** |
| Leave funds on deposit | Florible Distribution Options (conficile of leaving funds on deposit) [Trived Parament S (amount) |
| Leave funds on deposit Purchase annulty | Fixed Payment S (amount) |
| Leave funds on deposit Purchase sumulty Lump sum distribution | Fixed Payment S |
| Leave funds on deposit Porchase annulty Lump sum distribution Partial distribution | Fixed Payment S (amount) |
| Leave funds on deposit Purchase sumulty Lump sum distribution | ☐ Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump ann distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full phores only; partial shares will be paid in cash) Theoret Transfer Corn. No. Gross new fountial limitation. | Fixed Payment S |
| Leave funds on deposit Porchase annulty Lump sun distribution Parlial distribution of any employer stock (distribution will be in full shores only; partial shares will be paid in cost! Deposit Tenseter Cate. No. from new foundation, an stock our de transferred without training conficate. | ☐ Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump ann distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full phores only; partial shares will be paid in cash) Theoret Transfer Corn. No. Gross new fountial limitation. | ☐ Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in only Deposit Transfer Corp. No. from new founded lumination, so stock can be transferred without training conficused Note: Please refer to your Summery Plan Description or contact your Plan Accordiable under the plan. | ☐ Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in only Deposit Transfer Carp. No. from new founded lumination, so stock can be transferred without training conficused Note: Please refer to your Summery Plan Description or contact your Plan Accordiable under the plan. Payment Options | Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in only Deposit Transfer Carp. No. from new founded lumination, so stock can be transferred without training conficused Note: Please refer to your Summery Plan Description or contact your Plan Accordiable under the plan. Payment Options | ☐ Fixed Payment S |
| Leave funds on deposit Purchase annuity Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in only Deposit Transfer Carp. No. from new founded lumination, so stock can be transferred without training conficused Note: Please refer to your Summery Plan Description or contact your Plan Accordiable under the plan. Payment Options | Fixed Payment S |
| Leave funds on deposit Porchase annuity Lump and distribution Partial distribution In-kind distribution of any employer stack (distribution will be in full shares will be paid in early Deposit Transfer Corp. No. (from new foundal instanton, no stock can be transferred without training conficused) Note: Please refer to your Summary Plan Description or contact your Plan Accordiable under the plan. Payment Options Wire transfer (Complete Information below only if we distribution of at least \$5,000. Any distribution less to the plan. ABA No. Institution Name | Fixed Payment S |
| Leave funds on deposit Porchase samily Lump and distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full aboves only; partial skares will be paid in onsig The Deposit Transfer Corp. No. Granuce found intuition, so stock can be samplared without training conferred. Note: Please refer to your Summary Plan Description or contact your Plan A available under the plan. Pryment Options Whe transfer (Complete Information below only if with thinking of at least 15,000. Any distribution less to the plan. ABA No. Institution Name Institution Name | Fixed Payment S |
| Leave funds on deposit Purchase samulty Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Casp. No. Growner foundation, so shock can be transferred without training conficuely Mote: Please refer to your Summery Plan Description or contact your Plan A couliable under the plan. Proposed Options Check or Wire transfer (Complete Information below only if with the plan in the pl | Fixed Payment S |
| Leave funds on deposit Porchase samily Lump sun distribution Parlial distribution In-kind distribution of any employer stock (distribution will be in full shores only; partial shares will be paid in costly Deposit Transfer Cutp. No. Grouner found limitation, so stock can be transferred without training conficured Note: Please refer to your Summory Plan Description or contact your Plan Account to plan. Payment Options Check or Wire transfer (Complete Information below only if we distribution of at least 15,000. Any distribution less to the plan. ABA No. Institution Name Institution Name Account Name Account Name Account Name | Fixed Payment S |
| Leave funds on deposit Purchase samulty Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Casp. No. Growner foundation, so shock can be transferred without training conficuely Mote: Please refer to your Summery Plan Description or contact your Plan A couliable under the plan. Proposed Options Check or Wire transfer (Complete Information below only if with the plan in the pl | Fixed Payment S |
| Leave funds on deposit Purchase annulty Lump sum distribution In-kind distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Cosp. No. Grow new founded institution, to shock can be transferred without testing conficiency Note: Please refer to your Summary Plan Description or contact your Plan Accountable under the plan. Pryment Options Vire transfer (Complete Information below only if we distribution of at least \$5,000, Any distribution less to the plan. ABA No. Institution Name Account Name Account Name Account Name (For wire to credit To" Institution Name (For wire to credit union or overseas bank, coil Transfer (For wire to credit union or overs | Fixed Payment over |
| Leave funds on deposit Purchase samily Lump sum distribution Partial distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Cosp. No. from new founds instanton, so shock can be transferred without issuing conficused Note: Please refer to your Summary Plan Description or contact your Plan Accountable under the plan. Payment Options Wire transfer (Complete Information below only if we distribution of at least \$1,000. Any distribution less to the plan. ADA No. Institution Name Institution Address Account Name Account Name | Fixed Payment over |
| Leave funds on deposit Purchase annulty Lump sum distribution In-kind distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Cosp. No. Grow new founded institution, to shock can be transferred without testing conficiency Note: Please refer to your Summary Plan Description or contact your Plan Accountable under the plan. Pryment Options Vire transfer (Complete Information below only if we distribution of at least \$5,000, Any distribution less to the plan. ABA No. Institution Name Account Name Account Name Account Name (For wire to credit To" Institution Name (For wire to credit union or overseas bank, coil Transfer (For wire to credit union or overs | Fixed Payment over |
| Leave funds on deposit Purchase annulty Lump sum distribution In-kind distribution In-kind distribution of any employer stock (distribution will be in full shares only; partial shares will be paid in easily Deposit Transfer Cosp. No. Grow new founded institution, to shock can be transferred without testing conficiency Note: Please refer to your Summary Plan Description or contact your Plan Accountable under the plan. Pryment Options Vire transfer (Complete Information below only if we distribution of at least \$5,000, Any distribution less to the plan. ABA No. Institution Name Account Name Account Name Account Name (For wire to credit To" Institution Name (For wire to credit union or overseas bank, coil Transfer (For wire to credit union or overs | Fixed Payment over |

10/9/2007 8:19 AM PAGE 3/003

| | • | | | | - | | | | |
|---|--|--|--|--|--|--|--|--|---|
| | | | | | • | | | | |
| | a D. Outstanding L | | | | | | | | |
| | onistructus losu(z) at | | | | | | 41. C 1 | • | • |
| Pag Pag | off the hom(a). (Call : | Transamerica to 1 | verify loan pays | ्रि कारण्या वार्ष इ | eroceitare prio | r io submiti irg | Dus Joran. | | |
| □ & | olinuo lona repaymenta | ı vie İçan eçapçat | (Avallable (f.) | प्रात्य कर दिही १००० | leposit and if a | lowed by the plo | ns. Call Trus | manazoz jor je | ruter syarmanon |
| □ De | fault the loan(s). I unde | estand that a taxe | हिट वीयर्गाहर्मा | will be reported | d to the LRS == | indicated in the | e Special Ta | K MOJECE KEED | KORIĞ LIND LAĞIN |
| | one of the above aptio | | , any outstand | d liter (x)mook ge | र वर्षामानां (च्या | y defoulled in a | recordance 1 | run Jeaurai re | Виниминг. |
| Section | n E. Tax Withbolds | og Efection | | <u> </u> | | | | | · · · · · · · · · · · · · · · · · · · |
| annites : | iory Federal Income" unless the distribution | to base as a cineca | ישנים הדפמסו | an Eima sensene | tir hom at sea. | • | | | |
| hón ega | al Federal Jacoma Ta: ci etherwise. If this did | lipadou il ladicc | a to the case | mapiolà (squa) jóu jè bog su cyá | i iscome isa w Karamana | listribution, 10: ithholding, 60 : | e federal inc | jon sjace jrog Koric (six mili i | es not apply. |
| □ >> | not withhold 10% opti | onal federal incor | nse tacc | _ | | | | مرسموناه بدا ادب | nten elata tuv Wil |
| withhel | rcome Tas Withboldi d'unicse you ciest cities | twise. | | | ither states with | er m) independ | ent excellors | mar (3) (3) (4) (4) | mes' siele kay alg |
| | not withhold state inco | | adeat election | is permined) | | | | | |
| | : F. Participant Sign wa: Any person who k | | _ | | | | **** | | |
| of class | from a Bloom anually | andered freeze of his | i Matu Total Pri | MATHEMAT ARTY MAT | TRUCKLY SOME O | Anthonios of | shall slov b | e suriect to a | civil penalty nat i |
| For Ma underst | tion concerning any fai 15,000 and his stated w is far any violation that writed Participants: I and that this waiver is a | or material lawed clies of the claim, reof. elect to waive ap not offective with | or comment of the forest the control of the control | defetion, States d surviver benef consent (If appli | other than Nev lits (if applicate inable) of my t | · Fork also havi ie) with respec- pouse, witness | t de the snot ed by my Pi | est to be with: in Administra es on the text | hawn Sona the pl or or a Notary Pr |
| Penside For Ma undersi | tion concerning any far \$5,000 and the Maled w a for any violation that | other of the claim, other of the claim, other of the claim, other to write que not offective with estand that I may the Special Tax? | or comment of the forest the control of the control | d surviver benef consent (If appli his distribution (ng Plan Paymen) | other than flex lits (if applicable) of my to to the IRS and to the IRS and to, I excitly that | ie) with respect pouse, witness pay appropriate the informatic | t to the smot ed by my Ph e income tan as provided of Military | est to be with: in Administra es on the text | hawn Sona the pl or or a Notary Pr |
| For Manderet For All over, I X | inde concerning any facts. 5,008 and the stated was for any violation that article Participants: I under the processor of the participants: I under the processor of the participants: I under the participants: I under the participants: I under the participants: I under the participants of the participant and the participant and the participant of the par | other of the claim, other of the claim, other of the claim, other to write que not effective with stand that I may be special Tax? Let Special Tax? The special Tax? | for each such a allfied joint an out the writes have to report i office Reports | d survivor beneficonrent (if eppli this distribution in Physical principal programmes of the physical Data | other than flex fits (if applicable) of my s to the IRS and ts. I certify the | e Fork also have the with respect pouse, witness pay appropriate the Informatic Frist's | t to the most ed by my Ph e income tax at provided of MANY term and Social | not to be within Administration Administration in the term in this form in this form in Secondary Navabara | inswr from the pi for or a Notary Pr ble portion not re correct and nota |
| For Manderstande | tion concerning any facilities of the stated we spir any violation that arrived Participants: I and that this waiver is a Participants: I under tays received and send | other of the claim, other of the claim, other of the claim, not officially with a stand that I may be special. Tex? I will be special. Tex? This parameter of joint and supplicable. | for each such to a selffied joint amount the written for the write of th | d surviver beneficonsent (if applications of the policy of the distribution of the policy of the policy of the policy of the property of the policy of the p | other than New its (if applicable) of my s to the IRS and ts, I certify the | e Fork also have tely with respect pouse, witness pay appropriate the Informatic Prior to be withdraw th respect to the concent by signi | to the service of by my Phe income two as provided of the service | art to be within Administration Administration the term in this form is Second Pareton Second Pareton Inches I understand the maderated the | instent from the pi for or a Notary Pr bis portion not re correct and corre correct and corre and that this come at 1 do not have a |
| For Ma understan | inde concerning any facilities and facilities and facilities and facilities and facilities are facilities and that their waiver is a series facilities and that their waiver is a series facilities and facilities are received and read facilities are received and receive | other of the claim, other of the claim, other of the claim, not officially with a stand that I may be special. Tex? I will be special. Tex? This parameter of joint and supplicable. | for each such to a selffied joint amount the written for the write of th | d survivor beneficontent (if epplication of the distribution of th | other than flex fits (if applicable) of my s to the IRS and is, I earlify the property than to the smooth one's death wasser, if I do o WITNESSE | to be withdray in the bosonial by significant by si | to the smooth to the smooth tanks and Social terms and So | ant to be within Administration the term in the term in this form in Secondly Nowber to the control of the cont | the with the pitter of a Notary Property of the portion not reconnect and total connect and total and that this came at I do not have a termy consent. |
| For Mandenstein Por All over, I Section I consent consent | into concerning any facilities and any facilities and the stated was for any wholaston that arrived Participants: I under any received and read and | comment factoring the claims of the second that I may be second that I may be second that I may be second to the second that I may be second to the second that and the second that it is not the second to the second that it is not the | allfied joint and out the writes where to repeat to separate the services in the services without the services that under this part without about | d surviver beneficonsent (if application of the policies of th | other than flex fits (if applicable) of my s to the IRS and is, I earlify the property than to the smooth one's death wasser, if I do o WITNESSE | e Fork also have tely with respect pouse, witness pay appropriate the Informatic Prior to be withdraw th respect to the concent by signi | to the smooth to the smooth tanks and Social terms and So | ant to be within Administration the term in the term in this form in Secondly Nowber to the control of the cont | the with the pitter of a Notary Property of the portion not reconnect and total connect and total and that this came at I do not have a termy consent. |
| For Mandenstein Por All over, I Section I consent consent | into concerning my facilities and any facilities and the states of was for any worked on the said that their waters is and that their waters is and that their waters is a Participants: I under may received and read Participant of G. Spousal Consent to my spouse's water at its my spouse's water is will not receive a to the water of this q | contact of the claim, reof. clect to wrive que not effective with stand that I may the Special Tax? 1 | for each such visite alified joint an out the written that the written and the written and the written and Sign that and Sign that was and Sign that we would be written and Sign that we will be written and wi | d gurviver beneficonnent (if application of the content (if application of the content (if application of the content of the c | other than flex fits (if applicable) of my s to the IRS and ts, I earlify the property than to the smooth one's death wasser, if I do o WITNESSE | to be withdray in the bosonial by significant by si | to the smooth to the smooth to the smooth tan an entried of the smooth tan and Social an | ant to be within Administration and the term in the term in the term in the form in Secondly Parabatant of the term in the ter | the with the pitter of a Notary Property of the portion not reconnect and total connect and total and that this came at I do not have a termy consent. |
| For Mandenstein Por All over, I Section I consent consent | in concerning my facts. 100 miles that de was for any violation that article was for any violation that article Participants: I under layer secolated and read Participant Conservation of Spoussi Conservation of the water of this quality water of this quality water of the quality of the water of this quality water of the qu | contact of the claim, reof. clect to wrive que not effective with stand that I may the Special Tax? 1 | allfied joint and out the writes where to repeat to separate the services in the services without the services that under this part without about | d gurviver beneficonnent (if application of the content (if application of the content (if application of the content of the c | other than flex fits (if applicable) of my s to the IRS and is, I earlify the property than to the smooth one's death wasser, if I do o WITNESSE | to be withdray in the bosonial by significant by si | to the smooth to the smooth to the smooth tan an entried of the smooth tan and Social an | ant to be within Administration the term in the term in this form in Secondly Nowber to the control of the cont | the with the pitter of a Notary Property of the portion not reconnect and total connect and total and that this came at I do not have a termy consent. |
| For Manderst For All over, I ! X Section I conserve conserve X Section Vested | in concerning my facts. 100 miles that de was for any violation that article was for any violation that article Participants: I under layer secolated and read Participant Conservation of Spoussi Conservation of the water of this quality water of this quality water of the quality of the water of this quality water of the qu | comment for the claim, many included to waive up not offective with stand that I may it is Superial Text of the Su | for each such a allfied joint an out the writes have to report in office Regards have to report in free street in revivorship bene- ties under this p sorvivor and the few and Sign gracut status: | d gurviver beneficonnent (if application of the content (if application of the content (if application of the content of the c | other than flex fits (if applicable) of my s to the IRS and ts, I earlify the property than to the smooth one's death wasser, if I do o WITNESSE | to be withdray in the bosonial by significant by si | to the smooth to the smooth to the smooth tan an entried of the smooth tan and Social an | ant to be within Administration and the term in the term in the term in the form in Secondly Parabatant of the term in the ter | intern from the piper or a Notary Printer or a Notary Printer or a Notary Printer or and correct or any consent. |
| For Manderst Por All over, El Sectio I conse manner consent Sectio Vested Have a | in concerning my facilities of the states of | comment of the claim, reof. clect to wrive que not effective with stand that I may it the Special Tax? I | for each such a allfied joint an out the writes have to report in office Regards have to report in free street in revivorship bene- ties under this p sorvivor and the few and Sign gracut status: | d surviver beneficonsent (if eapli his distribution ag Plan Paymoni Deta Deta Deta Deta Deta Deta Deta Deta | other than the fits (if applicate inable) of my sto the IRS and to the IRS and th | to be withdray in the bosonial by significant by si | to the smooth to the smooth to the smooth tax an entried of the smooth tax and Social an | and to be within Administration and the term in Secondly Number to the term in the secondly Number to the secondly Number to the secondly Number to the secondly Number to the secondly not revolutely no | instens from the plant or a Notary Price or a Notary Price or and correct and |
| For Manderst Por All over, El X Sectio I conse manue: consort X Sectio Vested Have a | in concerning any facts. 2008 and the stated was for any workeron that article parts: I under the stated was for any workeron that article parts: I under the state of the sta | comment of the claims of the c | for each such a life of point an out the writes have to report to strong to strong the surface the point and strong the surface this point and strong the surface this point status. | d survivor beneficonrent (if epplication of the distribution of th | other than the other than the life (if applicable) of my s to the IRS and the least of the Brown the life the Brown the Brill of the Bri | ie) with respect pouse, witness pay appropriate the informatic Price's to be withdraw th respect to the consent by signi | to the smooth to the smooth to the smooth tan and provided of the smooth terms and Social terms the first smooth. I final contri | and to be within Administration and the term in Secondly Number to the term in the secondly Number to the secondly Number to the secondly Number to the secondly Number to the secondly not revolutely no | instens from the plant or a Notary Price or a Notary Price or and correct and |
| For Manderst Por All over, I X Section I conservation Section Vested Have at Period Note: I | in concerning any facts. 2008 and the stated was for any violation that article was for any violation that article Participants: I under the stated was received and read was a G. Spousal Consent to my spouse's waiw that I will not receive a to the waiver of this quality in the waiver of this quality is a great waiver of the spousal to the waiver of the spousal waiver of t | control of process of the claims of the clai | for each such a life of joint amoust the writes the writes the writes the life of joint and step of jo | d survivor beneficonrent (if espilinis distribution in Payment Data Data Data Data There with respect the upon upon upon upon upon upon upon upon | other than flee other than flee (if applicable) of my sto the IRS and the learning the property of the Brooms of the Brooms of this formation of this formations of this formation of this formations of this formation of | ie) with respect pouse, witness pay appropriate the informatic TI C- Prist to be withdraw th respect to the concern by signi | to the smooth to the smooth to the smooth tanks of the smooth tanks and Social tense and So | ant to be within Administration Administration in the term in the form in Secondary Paretter plans, I understand the term of term of the term of term of the term of the term of term | intern from the piper or a Notary Printer or a Notary Printer or a Notary Printer or and correct or and correct or any consent. |
| For Manderst For All over. I X Sectio I consensus Sectio Vested Have all Period Note: I I certifi | in concerning any facts. 2008 and the stated was for any workeron that article parts: I under the stated was for any workeron that article parts: I under the state of the sta | control of the claims of the c | for each such a life of joint amoust the writes the writes the writes the life of joint and step of jo | d survivor beneficonrent (if epplication of the distribution of th | other than flee other than flee (if applicable) of my sto the IRS and the learning the property of the Brooms of the Brooms of this formation of this formations of this formation of this formations of this formation of | ie) with respect pouse, witness pay appropriate the informatic TI C- Prist to be withdraw th respect to the concern by signi | to the smooth to the smooth to the smooth tanks of the smooth tanks and Social tense and So | ant to be within Administration Administration in the term in the form in Secondary Paretter plans, I understand the term of term of the term of term of the term of the term of term | intern from the piper or a Notary Printer or a Notary Printer or a Notary Printer or and correct or and correct or any consent. |
| Periodical | in concerning any last 5.008 and the stated was for any workeren the stated was for any workeren the and that this waiver is a Participants: I under the says received and read Participant Consent to my spouse's waive that I will not receive a to the waiver of this quality of the waiver of this quality of the says and the says of | control for claims of the clai | for each such a life of joint amoust the writes the writes the writes the life of joint and step of jo | d survivor beneficonrent (if epplication of the distribution of th | other than flee other than flee (if applicable) of my sto the IRS and the learning the property of the Brooms of the Brooms of this formation of this formations of this formation of this formations of this formation of | ie) with respect pouse, witness pay appropriate the informatic TI C- Prist to be withdraw th respect to the concern by signi | to the smooth to the smooth to the smooth tanks of the smooth tanks and Social tense and So | ant to be within Administration Administration in the term in the form in Secondary Paretter plans, I understand the term of term of the term of term of the term of the term of term | intern from the piper or a Notary Printer or a Notary Printer or a Notary Printer or and correct or and correct or any consent. |

10/9/2007 8:15 AM PAGE 2/003

| # ## TV- | MERICA Code Region IA to his STATE CODE TO A S | | Termination | Distribution Request of Employment/Retirement |
|---|--|---|--|---|
| Instructions | | | | |
| To request a distribution address. Do not use this 2214-TA), or log on to w | , complete all applicable sections of this form, obtain form to request a direct rollover to an IRA or an elig row.ta-retirement.com for forms and information on | sult tedepted sign in the second of the seco | riures, and return the r, instead complete a recount ballance to a f | form to Transamerica at the zbove Direct Rollover Request (Poms No. Fransamerica IRA. |
| Section A. Employer | | | | <u>, , i., </u> |
| Company/ Employer Name | Com Unity Lending Inc. | | | |
| Contract/Account No. | Affiliate No. | | Divisi | on No. |
| Section B. Participan | t Information | | | |
| Last Name P | HAM | | Date of Buth | |
| Pirat Name/MS | fai c | | Social Security No. | |
| Mulling Address | | | | |
| City | | | State | |
| Zip Code | | -4 | - | |
| Phone No Jekt | | | | |
| E-mail Address | hristins.phno@conunitylending.com | | | <u> </u> |
| Section C. Distributh | on Information | | | |
| Reason for distribution: | Tormination of employment | rement. | | |
| Amount of distributions | [¥ 100% or □s | sinder to be: 🔲 ka | Acordoposit (110t | per |
| Distribution Options | <i>P</i> | | | |
| Leave funds on depo | | Plexible Dist | ribution Options feed | ritaids if Searing funds on deposit |
| Porchase acquity | | Fixed Pa | ymeni S | (unoted) |
| Lump sum distributi | on | | ymed over | _years |
| Partial distribution | | Life Exp | ectancy 🔲 Single | Dint (proof of sponer's ogs required) |
| to-kind distribution shares only; partlal | nE any employes stock (distribution will be in full shares will be paid in cash) | Payment oon Payment free | anencement montic | |
| Depo | vis Transfer Corp. No. (from new financial taxitation. ck can be transferred without issuing certificates) | ☐ Montbly | _ | Scoul-Annual Annual |
| Note: Please refer to you ovallable under the plan. | v Summary Plan Description or contact yout Plan A | idministrator for m | ore information rega | rding the distribution options that are |
| Payment Options | | | | |
| Check or 🛛 | f Wire transfer (Complete information below only if w distribution of at least \$5,000, Any distribution fast t | ire transfer option than 15.000 will be | is selected. Option a processed in the for | railable only for lump sum or partial n of a check.) |
| ` | ABA No. | | | |
| (F | Institution Name | | | |
| I I | Institution Address | | | |
| | Account Name | MAI C. | phiaz | |
| | Account No. | | | |
| | Further Credit To Institution Name | | | |
| | For wire to credit union or overseas bank, call Trus | | | |
| Note: If one of the above | payment options is not selected, this distribution wil | l be procused in th | a form of a check. | |



10/9/2007 8:15 AM PAGE 3/003

| Section D. Outstanding Loan Options (Popplicable) |
|--|
| For any outstanding loan(s) at the time of my termination of cappleyment/retirement, I elect to: |
| Pay off the loan(s). (Call Transamerica to verify loan payoff amount and procedure prior to submitting this form.) |
| Continue to an repayments via tour coupans. (Available of funds are left on deposit and if allowed by the plan, Call Transacterica for further information.) |
| Definit the last(s). I understand that a texable distribution will be reported to the IRS as indicated in the Special Tax Notice Regarding Plan Payments. |
| Note: If one of the above options is not selected, any onistanding loon(s) will be automatically defaulted in accordance with federal regulations. |
| Section E. Tax Withholding Election |
| Mandatory Rederal Income Tax Withholding - If this distribution is an eligible rollower distribution, 20% mandatory federal income tax withholding applies unless the distribution is paid as a direct rollower to an eligible retirement plan or IRA. |
| Optional Federal factors Tax Withholding - If this distribution is not an eligible rollover distribution, 10% federal income tax will be withheld unless you elect otherwise. If this distribution is subject to the 20% mandatory federal income tax withholding, do not check below since it does not apply. |
| Do not withhold 10% optional federal income tax |
| State Income Tax Withholding - Withholding is mendelory in some states. Other states allow an independent election and in these states, state tax will be withhold unless you elect otherwise. |
| Do not withhold state income tax (if independent election is permitted) |
| Section F. Participant Signature |
| Please note: May person who knowingly and with Intent to defrond any hamanes company or other person files an application for insurance or statement of claim from a group annuly contract issued in New York, containing any materially false information, or conceals for the purpose of ministeding, information concerning any fact material thereto, commits a fromhelm insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed \$5,000 and the stated value of the claim for each such violation. States other than New York also have insurance fraud statutes, which impose panalities for any violation thereof. |
| for Married Participants: I elect to vaive qualified joint and sorriver beautits (if applicable) with respect to the encount to be withdrawn from the plan. I understand that this vaiver is not effective without the unities consent (if applicable) of my spouse, witnessed by my Plan Administrator or a Notary Public. |
| |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income tones on the tmouble portion not rolled over, I have received and resp the Special flax Nogice Regarding Plan Payments. I certify that the information provided on this form is correct and complete. |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income tenes on the tmobbe portion not rolled over. I have received and read the Special Rex Nigolic Regarding Plan Psyments. I cartify that the information provided on this form is correct and complete. X Multi-fragility Milk Phan Milk P |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the totable portion not rolled over. I have received and read the Special flux Nogice Regarding Plan Payments. I cartify that the information provided on this form is correct and complete. X Prolitional Signature Date Date Date Description to the IRS and pay appropriate income taxes on the totable portion not rolled over it has been because in the provided on this form is correct and complete. X Prolitional Signature Date Da |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income tenes on the tmobbe portion not rolled over. I have received and read the Special Rex Nigolic Regarding Plan Psyments. I cartify that the information provided on this form is correct and complete. X Multi-fragility Milk Phan Milk P |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income tones on the imable portion not rolled over. I have received and read the Special if at Northe Regarding Plan Payments. I cartify that the information provided on this form is correct and complete. X **Participant Signature** Date **Prior Remarks** Participant Signature* Date **Prior Remarks** Prior Remar |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the important provided over I have received and read the Special Fax Nogle Regarding Plan Payments. I certify that the information provided on this form is certest and complete. X What was a Nogle Regarding Plan Payments. I certify that the information provided on this form is certest and complete. X Panicipan Signature Date Date Date Date Date Plan Administrator Signature or Hoter, Public Signature and Second Second Date Dat |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the imable portion not rolled over. I have received and read the Special if an Northe Regarding Plan Payments. I certify that the information provided on this form is correct and complete. X Proliferant Signature Date |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the important provided over I have received and read the Special Fax Nogle Regarding Plan Payments. I certify that the information provided on this form is certest and complete. X What was a Nogle Regarding Plan Payments. I certify that the information provided on this form is certest and complete. X Panicipan Signature Date Date Date Date Date Plan Administrator Signature or Hoter, Public Signature and Second Second Date Dat |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income tones on the imable portion not rolled over. I have received and read the Special if an Northe Regarding Plan Payments. I cartify that the information provided on this form is correct and complete. X **Participant Signature** Date Da |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income faces on the trouble portion not rolled over. I have received and reas the Special if an Noglice Regarding Plan Payments. I certify that the information provided on this form is correct and complete. X Participant Signature Date Date Date Date Detail Remarked Social Security Number Section G. Spousal Consent (If applicable) I consent to my spouse's waiver of joint and survivorship benefits with respect to the amount to be withdrawn from the plan. I understand that this consent means that I will not receive any survivor benefits under this plan upon my spouse's death with respect to this amount, I understand that I do not send that I do not |
| For All Participants: I understand that I may have to report this distribution in the IRS and pay appropriate income taxes on the totable portion not rolled over, I have received and read that Special if an Northe Regarding Plan Payments. I certify that the information provided on this form is correct and complete. X |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income faces on the trouble portion not rolled over. I have received and reas the Special if an Noglice Regarding Plan Payments. I certify that the information provided on this form is correct and complete. X Participant Signature Date Date Date Date Detail Remarked Social Security Number Section G. Spousal Consent (If applicable) I consent to my spouse's waiver of joint and survivorship benefits with respect to the amount to be withdrawn from the plan. I understand that this consent means that I will not receive any survivor benefits under this plan upon my spouse's death with respect to this amount, I understand that I do not send that I do not |
| For All Participants: I understand that I may have to report this distribution to the IRS and pay appropriate income taxes on the trackle portion not rolled over, I have received and read the Special Kext Northern Payments. I certify that the information provided on this form is correct and complete. X **Preferent Special Kext Northern Date Special S |



Case 5:08-cv-00201-JW Document 1-9 Filed 01/11/2008 Page 2 of 2

Case 5:07-cv-05436-JW Document 23 Filed 11/20/2007 Page 1 of 1

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

E-FILED

CIVIL MINUTES

Judge: James Ware Date: 11/20/2007

Case No: C-07-05587 JW

Courtroom Deputy: Elizabeth Garcia Court Reporter: Summer Clanton

Interpreter: N/A

TITLE

Pham et al v. ComUnity Lending Inc.

Attorney(s) for Plaintiff(s): Ronald Kravitz
Attorney(s) for Defendant(s): Richard Couch, Robert Franklin

PROCEEDINGS

OSC re Plainitffs' Ex Parte Application for Writ of Attachment or in the Alternative Motion for Temporary Protective Order and Motion to Order to Show cause re Issuance of Right to Attach Order.

ORDER AFTER HEARING

Hearing Held. The Court heard oral arguments from the parties. The Court GRANTED the Motion for Temporary Protective Order. The Court specially set a Motion Hearing for 12/4/2007 at 1:30 PM.

Elizabeth C. Garcia Courtroom Deputy Original: E-Filed

CC:

Case 5:08-cv-00201-JW

Page 1 of 3 Document 24 Filed 11/21/2007 Case 5:07-cv-05436-JW 1 2 3 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE NORTHERN DISTRICT OF CALIFORNIA 8 SAN JOSE DIVISION 9 Mai Christina Pham, et al., NO. C 07-05436 JW 10 TEMPORARY PROTECTIVE ORDER Plaintiffs, 11 12 ComUnity Lending Inc., et al., 13 Defendants. 14 15 Before the Court is Plaintiffs' Emergency Ex Parte Application for Writ of Attachment, or In 16 Alternative, Motion for a Temporary Protective Order and Motion for Order to Show Cause Re 17 Issuance of Right to Attach. (See Docket Item Nos. 9, 10.) 18 On November 20, 2007, the Court conducted a hearing. Ron Kravitz, counsel for 19 the Plaintiffs, and Bob Franklin, counsel for the Defendants appeared on behalf of their respective 20 clients. Also present was Richard Couch, President of Defendant, ComUnity Lending Inc. 21 For the reasons stated on the record, the Court orders as follows: 22 ComUnity Lending Inc. and Richard Couch shall hold all funds associated with the (1) 23 TopHat Deferred Compensation Plan in a separate and sequestered account, to which 24 only Mr. Couch has access, until further direction is provided by the Court. No 25 money from the TopHat Plan shall be removed, spent, or otherwise transferred for 26 any purpose. 27 28

Document 1-10

Filed 01/11/2008

Page 2 of 3

Case 5:08-cv-00201-JW Document 1-10 Filed 01/11/2008 Page 3 of 3 Filed 11/21/2007 Page 2 of 3 Case 5:07-cv-05436-JW Document 24

> (2) The parties shall appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, CA. on December 4, 2007 at 1:30 P.M. to show cause, if any, why the Court should not issue a Writ of Attachment on the TopHat funds. Defendants' shall file their opposition brief no later than November 28, 2007. Plaintiffs' reply, if any, shall be filed no later than November 29, 2007.

Dated: November 21, 2007

JAMES WARE United States District Judge

3

4 5

6

7

8 9

10

11 12

13

14 15

17

16

18

19

20

21 22

23

24

25

26

27 28 Filed 12/06/2007 Page 1 of 4

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

Mai Christina Pham, et al.,

NO. C 07-05436 JW

Plaintiffs.

ORDER GRANTING PLAINTIFFS' APPLICATION FOR A WRIT OF ATTACHMENT

ComUnity Lending Inc.,

Defendant.

Presently before the Court is Plaintiffs' Application for a Writ of Attachment. (See Docket Item No. 10.) The Court conducted a hearing on December 4, 2007. For the reasons stated on the record, the Court GRANTS Plaintiff's application for a writ of attachment.

Plaintiffs in federal court may invoke whatever remedies are provided under the law of the state in which the federal court is located for "seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action." Fed. R. Civ. P. 64; Reebok Int'l, Ltd. v. Marnatech Enters., Inc., 970 F.2d 552, 558 (9th Cir. 1992). These remedies may include a writ of attachment. Fed. R. Civ. P. 64. The effect of Rule 64 is to incorporate state law to determine the availability of prejudgment remedies for the seizure of property to secure satisfaction of a judgment ultimately entered. Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers, Local No. 70 of Alameda Co., 415 U.S. 423, 436 n. 10 (1974). Thus, the Court examines Plaintiffs' application under California law. In California, the procedures

United States District Court

For the Northern District of California

and grounds for obtaining orders for prejudgment writs of attachment are governed by California Civil Procedure Code §§ 481.010-493.060.

Attachment "is a remedy by which a plaintiff with a contractual claim to money (not a claim to a specific item of property) may have various items of a defendant's property seized before judgment and held by a levying officer for execution after judgment." Waffer International Corporation v. Khorsandi, 69 Cal. App. 4th 1261, 1271 (1999). An attachment may be issued "only in an action on a claim or claims for money, each of which is based upon a contract, express or implied, where the total amount of the claim or claims is a fixed or readily ascertainable amount not less than five hundred dollars." Cal. Civ. Proc. Code § 483.010(a). Attachment lies on any claim against a partnership or corporation or on claims against individuals that arise out of the conduct by the individual of a trade, business, or profession. § 483.010(a) & (c).

Based on the papers submitted to date and arguments by counsel at the hearing, the Court finds that Plaintiffs have met their burden to establish grounds for relief. Plaintiffs have shown that:

(1) the claim upon which the attachment is based is one upon which an attachment may be issued;

(2) the attachment is not sought for a purpose other than recovery of the claim upon which the attachment is based; (3) the amount to be secured by the attachment is greater than zero; (4) the property sought to be attached is not exempt from attachment; and (5) Plaintiffs will suffer great or irreparable injury (within the meaning of Section 485.010) if issuance of the order is delayed until the matter can be heard on notice. Cal. Civ. Proc. Code §§ 484.090(a); 485.220.

The Court orders that Plaintiffs have the right to attach Defendant ComUnity Lending, Inc.'s property in the amount of \$3,835,119. The Clerk shall issue a writ of attachment for \$3,835,119, for the deposit account identified by Defendant's President, Richard Couch, at the Court's November 20, 2007 hearing. (See Docket Item No. 24.) It is further ordered that Defendant or Mr. Couch shall disclose to the levying officer 1) the financial institution at which the account described above is held, and 2) the account number of said account.

Case 5:08-cv-00201-JW Document 1-11 Filed 01/11/2008 Page 4 of 4 Filed 12/06/2007 Case 5:07-cv-05436-JW Page 3 of 4 Document 30 The parties shall appear for the Case Management Conference presently scheduled for February 25, 2008 at 10 A.M. Pursuant to the Civil Local Rules of Court, the parties shall meet and confer and file a Joint Case Management Conference by February 15, 2008. Dated: December 6, 2007 United States District Judge б

Case 5:08-cv-00201-JW

Document 1-12

Filed 01/11/2008

Page 1 of 2

U.S. Bankruptcy Court Northern District of California (San Jose) Adversary Proceeding #: 08-05006 **Internal Use Only**

Assigned to: Judge Marilyn Morgan

Related BK Case: 08-50030

Related BK Title: ComUnity Lending, Incorporated

Related BK Chapter: 11 Demand: \$4243013000

Nature[s] of Suit: 14 Recovery of money/property - other

Date Filed: 01/07/08

UNITED STATES BANKRUPTCY COURT

Northern District of California

I certify that this is a true, correct and full copy of the original document on file in my custody.

Deputy Clerk

Plaintiff

Mai Christina Pham

6552 Blue Heron Drive Huntingdon Beach, CA

BANKRUP THE PARISTRICT OF CHILLIE

resented by George H. Kalikman

Liner Yankelevitz Sunshine et al.

199 Fremont St. 20th Fl.

San Francisco, CA 94105-2255

(415)954-0200

Email: gkalikman@linerlaw.com

LEAD ATTORNEY

John Pham

6552 Blue Heron Drive

Huntingdon Beach, CA 92648

Mai Nguyen

1092 El Camino Lane

Santa, CA 92705

Hung Perry Nguyen

13814 Apache

Tustin, CA 92782

Joyce Freeman

475 Mello Lane

Santa Cruz, CA 95062

represented by George H. Kalikman

(See above for address)

LEAD ATTORNEY

represented by George H. Kalikman

(See above for address)

LEAD ATTORNEY

represented by George H. Kalikman

(See above for address)

LEAD ATTORNEY

represented by George H. Kalikman

(See above for address)

LEAD ATTORNEY

V.

Defendant

ComUnity Lending, Incorporated

5671 Santa Teresa Blvd.

Suite 201

San Jose, CA 95123

Tax id: 94-2673933

represented by John Walshe Murray

Law Offices of Murray and Murray 19400 Stevens Creek Blvd. #200

Cupertino, CA 95014-2548

(650) 852-9000

Email: jwmurray@murraylaw.com

LEAD ATTORNEY

Case 5:08-cv-00201-JW Document 1-12

Filed 01/11/2008 Page 2 of 2

| Filing Date | # | Docket Text |
|-------------|-------------------|---|
| 01/07/2008 | 9 1 | Adversary case <u>08-05006</u> . 14 (Recovery of money/property - other) Complaint by Mai Christina Pham, John Pham, Mai Nguyen, Hung Perry Nguyen, Joyce Freeman against ComUnity Lending, Incorporated. Fee Amount \$250. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5# <u>6</u> Exhibit 6# <u>7</u> Exhibit 7# <u>8</u> Exhibit 8# <u>9</u> Exhibit 9# <u>10</u> Exhibit 10# <u>11</u> Exhibit 11# <u>12</u> Exhibit 12# <u>13</u> AP Cover Sheet AP Cover Sheet) (Kalikman, George) Modified on 1/8/2008 (Cheung, Jackson). (Entered: 01/07/2008) |
| 01/07/2008 | | Receipt of filing fee for Complaint(08-05006) [cmp,cmp] (250.00). Receipt number 4986082, amount \$250.00 (U.S. Treasury) (Entered: 01/07/2008) |
| 01/07/2008 | ● <u>2</u> | Summons to be Issued on ComUnity Lending, Incorporated (RE: related document(s)1 Complaint,, filed by Plaintiff Hung Perry Nguyen, Plaintiff Mai Nguyen, Plaintiff Mai Christina Pham, Plaintiff John Pham, Plaintiff Joyce Freeman). (Kalikman, George) (Entered: 01/07/2008) |
| 01/07/2008 | ⊕ <u>3</u> | Motion for Withdrawal of Reference of Adversary Proceeding Fee Amount \$150. Filed by Plaintiffs Joyce Freeman, Hung Perry Nguyen, Mai Nguyen, John Pham, Mai Christina Pham. (Attachments: # 1 Memorandum of Points and Authorities in Support of Motion for Withdrawal of Reference# 2 Declaration of Ronald S. Kravitz in Support of Motion for Withdrawal of Reference of Adversary Proceeding# 3 Exhibit 1# 4 Exhibit 2# 5 Exhibit 3# 6 Exhibit 4# 7 Exhibit 5# 8 Exhibit 6# 9 Exhibit 7# 10 Exhibit 8# 11 Exhibit 9# 12 Exhibit 10) (Kalikman, George) (Entered: 01/07/2008) |
| 01/07/2008 | | Receipt of filing fee for Motion for Withdrawal of Reference(08-05006) [motion,mwdref] (150.00). Receipt number 4987428, amount \$ 150.00 (U.S. Treasury) (Entered: 01/07/2008) |
| 01/08/2008 | 9 4 | Summons Issued on ComUnity Lending, Incorporated Answer Due 2/7/2008. (aw,) (Entered: 01/08/2008) |
| 01/08/2008 | 9 5 | Order for Telephonic Status Conference with Certificate of Service Status Conference to be held on 4/15/2008 at 10:30 AM at SanJose Courtroom 3070 - Morgan. (aw,) (Entered: 01/08/2008) |